MEMORANDUM

JOINT BUDGET COMMITTEE

TO	JBC Members
FROM	JBC Staff
DATE	March 19, 2018
SUBJECT	Comeback Packet 4

Included in this packet are staff comeback memos for the following items:

Compensation (Alfredo Kemm):
- Salary Increase and Salary Range Adjustment *(Tabled from Packet 1)*
- PERA
- S.B. 18-200 Technical Note

Corrections (Megan Davisson): *(Tabled from Figure Setting)*
- R1 Staff Retention
- Correctional Officer Step Plans (*Includes Legislation*)
- Nurse and Mid-Level Provider Compensation Adjustment
- Prison, Community Corrections, Intensive Supervision Program, and Parole Utilization
- R2/BA1b External Capacity
- Line Item Detail for (1)(B)(2) External Capacity
- Specialized Bed RFI

Education (Craig Harper): R6 Charter School Institute Mill Levy Equalization *(Tabled from Packet 2)*

Higher Education (Amanda Bickel):
- Set-aside for Teacher Residencies
- Colorado Opportunity Scholarship Initiative Revised Recommendation (Bill #15)

Human Services (Carolyn Kampman):
- R1b Compensation Adjustment for Nurses at CMHIP *(Tabled from Packet 1)*
- Recommended Funding for JBC Bill Draft Concerning Competency Services

Human Services (Vance Roper): Early Childhood Councils

Judicial (Steve Allen): *(Tabled from Packet 1)*
- R1 System Maintenance Study
- BA 10.2 IT Staff and Pay Adjustments

Law (Craig Harper): Attorney Salary Survey *(Tabled from Packet 2)*

Legislature (John Ziegler): Placeholder for the Legislative Appropriations Bill

Marijuana (Carolyn Kampman): JBC Actions to date

Provider Rates (Eric Kurtz): Community Provider Rate Common Policy *(Tabled from Figure Setting)*

Revenue (Alfredo Kemm): Footnotes and RFIs *(Tabled from Packet 1)*

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303.866.4549)
DATE	March 19, 2018
SUBJECT	Statewide Compensation figure setting comeback (1 of 3) – Salary Increase and Salary Range Adjustment

At Statewide Compensation figure setting on January 20th, the Committee tabled a decision on salary increases and salary range adjustments. **Staff continues to recommend the requested 2.0 percent salary range adjustment. However, the Committee may wish to consider an alternate recommendation to the 3.0 percent salary increase request.**

The Governor's budget request included a 3.0 percent salary increase for state employees. However, the salary increase request appeared to be packaged with a PERA-related proposal that state employee contributions to PERA should increase by 2.0 percent beginning in calendar year 2019; effectively providing a net 2.0 percent salary increase for state employees for the full fiscal year.

For figure setting on January 20th, staff approached the 3.0 percent salary increase separate and apart from the PERA employee contribution increase. Staff did this because the salary increase request is within state budget issues that the Committee must consider and decide as a part of statewide compensation figure setting; while the PERA employee contribution increase is a statutory policy change that falls outside of figure setting decisions per se.

In considering the Governor's requested 3.0 percent salary increase in the context of a 2.0 PERA contribution increase, delivering a net 2.0 percent salary increase, **staff recommends that the Committee may wish to consider providing a 2.0 percent salary increase**, which would match the Governor's net salary increase request. In the context of the Governor's packaged request, **staff further recommends that the Committee set aside the possibility of a PERA contribution increase in its salary increase decision.**

Staff estimates that a 2.0 percent across-the-board salary survey increase would cost approximately $39.8 million total funds including $22.1 million General Fund; equivalent to 2/3rds of the 3.0 percent salary increase which totals $59.7 million total funds including $33.2 million General Fund. The following table outlines estimated costs for additional percentage increase adjustments.

Estimated Costs - Across-the-board Salary Increase		
Percent Increase	Total Funds	General Fund
1.0	$19,890,123	$11,061,071
1.5	29,835,184	16,591,607
2.0	39,780,245	22,122,142
2.5	49,725,307	27,652,678
3.0	$59,670,368	$33,183,213

Staff's January 20th figure setting recommendations for salary increase and salary range adjustment follow.

➔ SALARY RANGE ADJUSTMENT

REQUEST: The request is for a 2.0 percent salary range adjustment for all occupational groups.

RECOMMENDATION: Staff recommends that the Committee approve the request.

The requested salary range adjustment is recommended in the annual compensation report. As salaries in the market adjust, the salary range adjustment serves to keep classification minimums, maximums, and midpoints in line with market salaries. To the extent that these adjustments move an employee's salary below the range minimum, the associated funding has been requested within the salary survey compensation component.

➔ ACROSS-THE-BOARD SALARY INCREASE

REQUEST: The request is for a 3.0 percent across-the-board salary increase for all state employees, including State Trooper classes, including base building up to the range maximum.

RECOMMENDATION: Staff recommends that the Committee approve the request and appropriations as outlined in the following table.

Statewide Salary Increases - Request and Recommendation - 3.0% ATB, 0.0% Merit Pay

	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
FY 2018-19 Estimated Salary Base					
Estimated Salary Base	$1,964,223,823	$1,078,207,552	$476,237,240	$215,982,261	$193,796,770
FY 2017-18 Appropriation					
Salary Survey - 1.75 percent	$34,610,782	$18,335,747	$9,263,793	$3,800,073	$3,211,168
Merit Pay - 0.75 percent	13,936,629	8,014,451	3,053,180	1,539,295	1,329,703
Subtotal - Statewide Salary Increases	**$34,610,782**	**$18,335,747**	**$9,263,793**	**$3,800,073**	**$3,211,168**
FY 2018-19 Request and Recommendation					
Salary Survey - 3.0 percent	$59,670,368	$33,183,213	$14,166,687	$6,500,090	$5,820,378
Merit Pay - 0.0 percent	0	0	0	0	0
Subtotal - Statewide Salary Increases	**$59,670,368**	**$33,183,213**	**$14,166,687**	**$6,500,090**	**$5,820,378**
Increase/(Decrease)	$25,059,586	$14,847,465	$4,902,894	$2,700,017	$2,609,210
Percent Change	72.4%	81.0%	52.9%	71.1%	81.3%
Statewide Salary Increase on Salary Base	3.0%	3.1%	3.0%	3.0%	3.0%

The requested 3.0 percent increase is recommended in the annual compensation report. While the report recommends a merit increase, the Governor's request remains consistent from the prior year in foregoing the use of merit pay for an across-the-board increase. Staff is reluctant to recommend the merit pay given the Administration's determined insistence on the use of an across-the-board increase last year, its failure to request appropriations using its own merit pay policy tool for the third straight year, and its continued disregard for the merit recommendation in the annual compensation report.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303.866.4549)
DATE	March 19, 2018
SUBJECT	Statewide Compensation figure setting comeback (2 of 3) – PERA-related issue brief

ISSUE STATEMENT

In the attached, statewide compensation figure setting comeback memo (1 of 3), regarding salary increases, staff recommends that the Committee may wish to consider a 2.0 percent salary increase, matching the Governor's requested 2.0 percent net salary increase after including the Governor's proposed increase in employee contribution rates to PERA. In that recommendation staff recommends that the Committee set aside the possibility of a PERA contribution increase in its salary increase decision.

In the Statewide Compensation and PERA briefing in November, staff outlined the PERA Board's request for changes to PERA policies to improve the funded status, as well as the Governor's proposed changes. <u>Staff identified areas of concern but did not provide the Committee with a recommended course of action as it relates to state budget issues.</u> In this memo, staff will further describe concerns with increasing the employee contribution rate and propose an alternate policy approach given the fundamental nature of the PERA problem.

STAFF BRIEFING RECAP

In the staff briefing, staff discussed areas of agreement with PERA's requested changes in aligning contributions, but expressed concerns with requested changes to modify benefits and increase contributions on current and future employees. Staff also discussed concerns with the characterization of crisis that is primarily attributable to the PERA Board's lowering of its long term rate of return to 7.25 percent, rather than to objective changes in economic and market conditions.

30-YEAR FUNDING HORIZON AND THE ARC

Related to the characterization of crisis, staff discussed the option of considering a 40-year funding horizon rather than a 30-year funding horizon included as the basis for the PERA Board's requested changes, as well as the Governor's proposed changes. In particular, Representative Young expressed concern that the credit rating agencies base their criteria on a 30-year funding horizon while Senator Lambert expressed an interest in setting a 20-year funding horizon.

The difference in funding horizon reflects a difference in annual cost that is similar to comparing a 30-year or 15-year mortgage; the 15-year requires higher annual payments but results in lower amount paid in interest and principal payoff in half the time. Similarly, extending a 30-year funding horizon to 40 years would reduce the State's (and other PERA employers) annual cost. And likewise, shortening a 30-year funding horizon to 20 years would increase the annual cost to the State.

ⓘ THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD OR GASB DEFINES A CONCEPT KNOWN AS THE "ACTUARIALLY REQUIRED CONTRIBUTION" OR ARC. THE ARC CONSISTS OF TWO PARTS: (1) CURRENT: THE NORMAL COST RATE OR THE "NORMAL COST" IS THE PRESENT VALUE OF BENEFITS EARNED IN THE CURRENT

YEAR AS A PERCENTAGE OF SALARY (ACTUARIAL COST OF CURRENT BUDGET YEAR EMPLOYEES); AND (2) PAST: AN AMORTIZATION PAYMENT, WHICH IS A CATCH-UP PAYMENT FOR PAST SERVICE COSTS TO FUND THE UNFUNDED LIABILITY OVER THE NEXT 30 YEARS.

Given the GASB standard for the ARC and the apparent consensus to align with a 30-year funding horizon, staff aligns recommendations with this standard.

CONTRIBUTION RATES PROBLEM STATEMENT

The PERA Board and the Governor have both recommended increases in employee contribution rates. Additionally, it appears that S.B. 18-200, *Modifications to PERA to Eliminate Unfunded Liability*, includes more aggressive increases in employee contributions as well as changes to benefit structure which further reduce the normal cost of the benefits structure for current and future employees.

However, there **IS NOT** currently a disjunction between contribution rates – employee or employer – and the present value of benefits earned in the current year by current budget year employees (normal cost) that requires an increase in contribution rates.

Standard contribution rates for most PERA employees total 18.15 percent between the employee's 8 percent and the employer's 10.15 percent and **over-funds** the normal cost for current employees by at least 50 percent. Normal cost is identified at no more than about 12 percent for the entire population of current PERA employees. At the PERA hearing on December 7th, Greg Smith stated that the blended normal cost for all PERA employees is 11 to 12 percent, while the post-2011 employee tier has a normal cost of just above 10 percent. In a more recent communication with staff, PERA identifies the current normal cost of all state employees as 10.87 percent, and a normal cost of state employees hired on or after January 2011 as 10.07 percent.

The June 2015 PERA cost and effectiveness comparison study identified the normal cost for PERA employees hired on or after 2011 as 8.82 percent at the time of the study. Using today's long term rate of return and other actuarial assumption changes since 2015, PERA states that its actuaries have estimated a normal cost for the proposed new benefits structure for future employees to be 8.83 percent. On this basis, PERA's requested policy changes entail having future employees pay a 10 percent employee contribution for a benefit that costs 8.83 percent.

Senate Bill 18-200 will increase employee contributions to 11 percent by January 2020, provides for up to an additional 2 percent increase over four additional years to 13 percent, and includes additional benefit structure cost reductions generating an even lower normal cost. PERA identifies the normal cost of S.B. 18-200 changes on future employees at 8.72 percent. On this basis, S.B. 18-200 has future state employees paying up to a 13 percent employee contribution for a benefit that costs 8.72 percent.

Further, this does not include the 5 percent SAED contribution, which, while structured as an employer payment also includes the statutory specification that it be from money that would otherwise be used for employee salary increases. It is possible that current employee pay may be up to 5 percent lower due to the SAED contribution. PERA's December 2017 hearing response concurs, stating, "It is not unreasonable to conclude that an employee's current salary is anywhere from 0.0% to 5.5% lower than it would be if the SAED did not exist." Similarly, the January 2018 hearing response from the Department of Personnel states that annual recommended salary increases have been adjusted downward in consideration of the SAED adjustment for every year that included an increase to the SAED rate. PERA employees may currently be effectively paying a 13 percent contribution of income, if SAED is included. Senate Bill 18-200 includes provisions that may lead to a standard 13 percent contribution from employees not including the 5 percent SAED. Senate Bill 18-200 may generate a scenario in which employees are effectively paying 18 percent of income for a benefit with a cost of 9 percent or less. Functionally, this is a 100 percent tax on actual benefit costs.

Fundamentally, and for increased budget transparency, standard contribution rates should more closely reflect the structural cost of benefits – the annual, normal cost. At this time, standard contribution rates should instead be decreased to more transparently reflect the actual cost of retirement benefits for current employees.

➔ IN ORDER TO INCREASE TRANSPARENCY RELATED TO PAYMENTS FOR PERA, THE COMMITTEE MAY WISH TO CONSIDER ESTABLISHING STANDARD CONTRIBUTION RATES FOR EMPLOYEES AND EMPLOYERS THAT MORE CLOSELY REFLECT THE NORMAL COST OF CURRENT EMPLOYEES AND DEVOTE ANY ADDITIONAL PAYMENTS MADE BY ANY SOURCE TO A DIRECT PAYMENT FOR THE UNFUNDED LIABILITY.

THE UNFUNDED LIABILITY PROBLEM STATEMENT

ⓘ THE PROBLEM IS THE UNFUNDED LIABILITY – DIRECTLY ATTRIBUTABLE TO LEGACY COSTS, AS A RESULT OF PAST STATE POLICY DECISIONS, REGARDLESS OF FINANCIAL MARKET PERFORMANCE.

This problem is not a problem caused or generated by current budget year employees. In fact, current and future employees help to pay for the unfunded liability in the difference between the total standard employee plus employer contribution of 18.15 percent minus the normal cost of 10 to 11 percent, plus the 5 percent of AED and 5 percent of SAED. Each state employee enrolled in the defined benefit plan represents a payment of approximately 17-18 percent of salary annually for the unfunded liability, after the 10-11 percent of salary has paid for the employee's PERA benefits cost.

While it is regularly pursued as a method of governing, it is neither reflective of transparent budgeting nor good government principles to find other select groups to pay for the State's responsibilities as a result of past, poor decision making. As a matter of public policy fairness, additional policy changes to address the unfunded liability should not be addressed through additional contributions or participation payments or taxes from current and future employees.

Routing amortization payments of any kind, intended to pay for the liability related to past service costs, through current employee contributions and through employer contributions tied to payroll, creates a distortion and fiscal sleight-of-hand that makes it appear as if current employee retirement costs are 28 percent and rising.

THE PROBLEM WITH AED AND SAED

Staff has communicated transparency concerns with the AED and SAED mechanisms for several years in staff documents. What began as a minimal increased contribution for the purpose of making additional amortization payments in 2004, following the economic downturn of 2001, has become a much more substantial contribution and policy structure as time has passed. The AED as originally intended may have been a reasonable policy response to a relatively small, unfunded liability problem. The AED and SAED superstructure of today has very little transparency as to its purpose.

To the average observer, citizen, or legislator, it is hard to discern that the AED and SAED 'compensation-related' line items in every department budget are not a payment made for current employee compensation but are instead State debt payments for past service commitments that happen to be routed through and located in the payroll process and compensation budget structure.

➔ GIVEN THE CURRENT EFFORTS TO FURTHER INCREASE CONTRIBUTION RATES, STAFF RECOMMENDS THAT THE COMMITTEE RESIST INCREASES TO CONTRIBUTION RATES AS A MATTER OF BUDGET TRANSPARENCY AND POLICY FAIRNESS.

➔ FURTHER, STAFF RECOMMENDS THAT THE COMMITTEE MAY WISH TO PURSUE LEGISLATION TO ELIMINATE THE AED AND SAED POLICIES FOR STATE EMPLOYEES AND REPLACE THEM WITH AN ARC PAYMENT.

STAFF RECOMMENDATIONS

Staff recommends:

1. The elimination of the AED and SAED for state employees.
2. The creation of an ARC payment for the State and Judicial Divisions to pay the unfunded liability in 30 years.
3. Payment of the ARC payment from the General Fund. It is arguable whether current cash-funded programs should be paying for statewide legacy costs unassociated with the current cost of operating those cash-funded programs.

Staff further clarifies:

That the Committee could choose to make this change only for the State and Judicial Divisions of PERA, rather than for all divisions of PERA, as a means of addressing the State-related concerns in its role as an employer. If the Committee wishes to have the State comply with GASB and credit rating agency standards, it is unnecessary to require other PERA employers to participate in this solution <u>at this time</u>. This provides a clean solution for the State as employer, but remains silent on making similar changes for employers in other PERA divisions.

ESTIMATED COST

The PERA Board's requested policy changes are intended to enable the PERA unfunded liability to be paid up within 30 years. The following table outlines policy components and their estimated percentage of the solution.

PERA's Recommended Adjustments	
Policy Component	Estimated Percentage of Solution
Annual Increases/COLA (current retirees)	18.0%
Annual Increases/COLA (future retirees)	13.0%
Subtotal - Annual Increases/COLA	**31.0%**
Member Contributions (+3% current emp/+2% future emp)	19.0%
Employer Contributions (+2%)	19.0%
Subtotal - Contributions Increases	**38.0%**
JBC staff recommended adjustments on current/future employees	
Includable Salary (sec.125/132 deductions)	13.0%
Highest Average Salary (change from 3 to 5 years)	4.0%
Part-time Service Accrual (future employees)	2.0%
Subtotal - JBC staff recommended adjustments	**19.0%**
Retirement Eligibility (future employees)	12.0%
Total Adjustments	**100.0%**
Impact on current and future employees	63.0%
Impact on employers	19.0%
Impact on current retirees	18.0%
Total Adjustments	**100.0%**

Staff recommendations included non-contribution policy changes representing 19.0 percent of the solution as well as Annual Increase/COLA adjustments as recommended by PERA (or by the Governor) representing 31.0 percent. Staff's recommendations provide for 50 percent of the total PERA requested solution.

The following table outlines staff's analysis of the total cost to direct fund amortization payments for PERA to accommodate AED and SAED as well as fund the additional 50 percent of the PERA solution.

Direct payment of PERA amortization payments - cost analysis		
	Total Funds	GF
FY18-19 Base Salary Estimate	$1,754,667,548	$962,225,256
FY18-19 Recommended AED/SAED		
AED	89,787,143	48,828,430
SAED	89,578,799	48,621,349
Subtotal - PERA amortization payments	$179,365,942	$97,449,779
Additional GF cost to direct fund amortization payments from AED/SAED		$81,916,163
Percentage Increase over current GF payment for AED/SAED		84.1%
Staff recommended non-contribution PERA policy adjustments - solution percentage		50.0%
Solution percentage - PERA requested increase in contribution rates (approx. 5% total)		38.0%
5% on salary base/PERA contribution equivalent cost		$87,733,377
Cost for estimated 1 percent of solution		$2,308,773
Cost for direct payment of PERA amortization payments		
Cost for estimated 50 percent of solution		$115,438,654

Direct payment of PERA amortization payments - cost analysis		
	Total Funds	GF
GF cost to direct fund amortization payments from AED/SAED		179,365,942
***Total GF cost for a direct amortization payment**		**$294,804,597**
Percentage Increase over current GF payment for AED/SAED		255.4%
*Total reflects direct payment for AED/SAED and 50% solution of PERA recommended changes		

Staff's recommendation to replace AED and SAED with a single General Fund payment for amortization payments is equal to the total funds cost of AED and SAED, or $179.4 million. This represents a General Fund increase of $81.9 million over current General Fund payments for AED and SAED.

Staff's recommendation to fund 50 percent of the total requested PERA solution with a direct amortization payment would cost $179.4 million General Fund.

Staff's recommendation to fund a single actuarially required contribution payment for the amortization of PERA's unfunded liability within 30 years, would cost approximately $294.8 million General Fund in FY 2018-19. This is $197.4 million more than current AED and SAED payments from General Fund.

However, considered another way, that cost is otherwise borne by current and future employees if not paid by the State. This is in addition to the 32.0 percent of adjustment borne by current and future employees included in staff's recommended non-contribution PERA policy changes for Annual Increase/COLA adjustments and benefits structure changes.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303.866.4549)
DATE	March 19, 2018
SUBJECT	Statewide Compensation figure setting comeback (3 of 3) – S.B. 18-200 technical note

Technical Issues – S.B. 18-200

The normal cost rate or "normal cost" is the present value of benefits earned in the current year as a percentage of salary. The estimated normal cost rate for the benefits structure included in S.B. 18-200 for future employees is identified by PERA to be 8.72 percent. The estimated normal cost rate for the current benefits structure for state employees beginning on or after January 2011 is identified by PERA to be 10.07 percent and for all current state employees to be 10.87 percent. <u>The difference between the normal cost and the employee contribution represents the actual budget and accounting cost to the State of PERA's defined benefit plan for current budget year employees.</u> The balance of the employer contribution represents a payment from the State for the legacy cost of the unfunded liability.

The bill increases employee contributions from the current 8 percent to 11 percent as of January 2020; and provides for up to an additional 2 percent increase over four additional years to 13 percent. Employee contributions above the normal cost could be considered to be taxes on current, PERA-vested employees for participation in the PERA defined benefit plan, due to the fact that the additional amount exceeds the actual cost of PERA benefits for those employees. Future employees and current non-vested employees can choose to be "taxed" to participate in the PERA defined benefit plan by the choice to remain in or enter the defined benefit plan. However, vested employees are locked in and cannot move out of the defined benefit plan and into the defined contribution plan. Under current law and under the provisions of S.B. 18-200, defined contribution employees retain the entire amount of their standard employee contribution plus the entire amount of the standard employer contribution (not including AED and SAED) within their personal retirement account.

<u>1. In order to avoid legal scrutiny of employee contributions greater than the normal cost, the General Assembly may wish to include a provision that restricts employee contributions to no more than the normal cost.</u>

Normal cost suggests that current, standard contribution rates of 18.15 percent (employee and employer) overfund the actual normal cost (10.87 percent) of current employees by approximately 67.0 percent. Normal cost suggests that proposed contribution rates of 23.15 percent (13 percent employee and 10.15 percent employer) will overfund the actual normal cost (8.72 percent) of future employees by approximately 165.5 percent.

<u>2. In order to increase transparency related to payments for PERA, the General Assembly may wish to consider establishing standard contribution rates for employees and employers that more closely reflect the normal cost of current employees and devote any additional payments made by any source to a direct payment for the unfunded liability.</u>

3. Alternatively, the General Assembly may wish to consider establishing a new, separate PERA division for all current state employees to ensure that contribution rates at any level are fairly credited to the asset base of the new PERA division comprising current and future employees who will be paying increased contributions and receiving a lower cost benefits structure.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO Joint Budget Committee Members
FROM Megan Davisson, JBC Staff (303-866-2062)
DATE March 19, 2018
SUBJECT Tabled Items in the Department of Corrections

TABLE OF CONTENTS

During the Department of Corrections March 14, 2018 figure setting the Committee tabled the following five items:

- R1 Staff Retention
- Staff initiated – Correctional Officer Step Plans
- Staff initiated – Nurse and Mid-level Provider Compensation Adjustment
- Staff initiated – Corrections, Community Corrections, Intensive Supervision Program, and Parole Utilization
- R2/BA1b External Capacity

➔ R1 STAFF RETENTION

REQUEST: The Department requests an increase of $3,336,294 total funds, of which $3,292,961 is General Fund for a 5.0 percent salary increase for the following six employee classifications:

- Correctional Officer I
- Correctional Officer II
- Correctional Support Trades Supervisor I
- Nurse I
- Nurse III
- Mid-Level Provider (physician assistants).

The salary increases, as proposed by the Department, would be for staff with two to seven years of experience with the Department. Raises would be effective July 2018. Note the request does not account for the statewide 3.0 percent salary survey increase or Governor's proposed 2.0 percent increase of the employee Public Employees Retirement Association (PERA) contribution starting January 2019. The third issue in this document provides additional discussion of this request.

RECOMMENDATION: Staff recommends the Committee deny this request and instead approve the Staff initiated - Correctional Office Step Plans because an across the board increase does not address the issue that Department employees are not moving through the pay range and leaving the Department for better paying jobs. Funding a step plan for correctional officers would ensure movement through the pay range and align with how other law enforcement officers are paid.

ANALYSIS: JBC staff is not convinced a 5.0 percent one-time increase for these classifications would improve long-term retention because a 5.0 percent increase does not address the underlying issue about the lack of progression through the pay range. Employees within the Correctional Officer I and II classifications can easily move to county sheriff departments or local police departments after a couple of years with the Department and start out at a substantially higher salary. This request does not provide a continuous incentive for employees to stay with the Department for more than an additional year. Additionally, historical across the board salary increases have not improved the Department's ability to retain staff.

<u>Inequity between Departments for Similarly Classified Employees</u>

The Department of Human Services requested and received $2,853,305 General Fund in a FY 2017-18 September interim request for salary increases for registered nurses (Nurse I, II, and III) who worked at the Colorado Mental Health Institute – Pueblo (CMHIP). The Department of Human Services has requested for FY 2018-19 the continuation of these increases ($8,901,740 General Fund). Nurses and mid-level providers who are working in Department of Corrections' facilities, especially San Carlos, are on the same campus as the Department of Human Services nurses who are receiving these raises. It is unclear to staff why nurses who are doing similar job functions in institutional facilities should be treated differently.

➔ STAFF INITIATED – CORRECTIONAL OFFICER STEP PLANS *INCLUDES LEGISLATION*

REQUEST: The Department did not request this change but is aware of the staff recommendation.

RECOMMENDATION: Staff recommends the Committee sponsor legislation as part of the Long Bill package to allow the Department of Corrections to implement a step plan for correctional officers and correctional service trade supervisors. Staff recommends the legislation include an appropriation clause for $14,662,417 total funds, of which $14,471,806 is General Fund and $190,611 is cash funds for correctional officer step increases;

Staff also recommends legislation to eliminate the Department's General Fund transfers to the State Employees Reserve Fund (SERF) – this is JBC Potential Bill # 2 – Eliminate the Department of Corrections persona services reversions to the SERF and allow these funds to revert to the General.

ANALYSIS:

BACKGROUND

Many law enforcement agencies, including county sheriffs and local police departments, use a step plan for officer pay. Step plans are used to minimize officer turnover and maintain officer morale. The current relationship between the public and law enforcement, as well the demands and expectations placed on law enforcement officers is evolving and challenging. High staff turnover leads to:

- Increased overtime costs to cover shifts while new officers are in training;
- High costs to train and equip new officers;
- Decreased work life balance due to forced overtime and limited time off; and
- Unsafe conditions within the prisons[1].

Ensuring that the Department is able to maintain, and even reduce, officer turnover would lead to future cost avoidances. Additionally, incentivizing officers to stay within the Department and promote through the ranks ensures there are officers able and willing to take over leadership positions as the current leadership retires. There can be any number of steps to a step plan. The JBC staff proposed step plan is broken out into ten steps based on the structure of county sheriff's step plans, PERA vestment timelines, and state annual leave amounts. The steps at each classification discussed in this issue follow the same principles:

1. Largest increases are provided in step years one through six.
2. Minimal increases are provided in step years seven through nine.
3. A larger increase is provided in step year ten.

State employees become vested in their retirement benefits through PERA after five years, which can incentivize employees to stay at the Department through at least five years. The Department has found that if an employee stays for at least seven years, they are more likely to complete their tenure with the Department. Therefore, the proposed plan provides larger steps through step year six (steps start after the first year of service). In order to keep staff past the seventh year of service, the plan includes a larger increase in step year ten to provide employees with an incentive to stay. Annual leave and sick leave allowances increase in service years eleven and sixteen. The following table summarizes the steps by correctional officer classifications.

STEP PLAN STEPS							
STEP	PERCENT INCREASE	CORRECTIONAL OFFICER I		CORRECTIONAL OFFICER II		CORRECTIONAL SUPPORT TRADES SUPERVISOR 1	
		MONTHLY	ANNUAL	MONTHLY	ANNUAL	MONTHLY	ANNUAL
Base		$3,448	$41,376	$4,031	$41,376	$4,031	$41,376
1	5.0%	3,620	43,440	4,233	50,796	4,233	50,796
2	4.8%	3,794	45,528	4,436	53,232	4,436	53,232
3	4.4%	3,961	47,532	4,631	55,572	4,631	55,572
4	3.8%	4,112	49,344	4,807	57,684	4,807	57,684
5	3.4%	4,252	51,024	4,970	59,640	4,970	59,640
6	3.0%	4,380	52,560	5,119	61,428	5,119	61,428
7	1.5%	4,446	53,352	5,196	62,352	5,196	62,352
8	1.5%	4,513	54,156	5,274	63,288	5,274	63,288

[1] Staff shortages were noted as a contributor in the February 2017 Delaware prison riot that claimed the life of one employee and the October 2017 North Carolina prion escape attempt that claimed the lives of four employees.

9	1.5%	4,581	54,972	5,353	64,236	5,353	64,236
10	5.0%	4,810	57,720	5,621	67,452	5,621	67,452

Similar to how the Department of Human Services implemented the pay increases for nurses, employees would need to have a rating of 2 or 3 on the most recent performance evaluation to be eligible to progress to the next step. The final detail to the step plan is how to ensure that new employees are not paid above current employees with more experience. The proposed plan has the following two components to address new and current staff.

COMPONENT 1

The step plan as shown in the above table would apply to all staff hired starting July 1, 2018 and going forward. Staff in this category would move through the steps and, if they do not promote to a higher classification, would max out after step year ten.

COMPONENT 2

For all existing staff (hire on or before June 30, 2017), there would need to be salary adjustments to ensure new employees are not paid above current employees. This component has at least two options for how to implement. Implementing a step plan without moving existing staff to steps would create inequities and could lead to a higher turnover rate. Staff recommends grouping two years of employees together for each jump. This could create issues with staff hired in the first year being paid the same as those in the second year (i.e. an employee is hired in July 2015 would be moved to the same step as an employee hired June 2017). Despite this concern, staff found that based on the current compensation data there is little (as little as $30 per month) difference in the average salary of employees hired in one fiscal year compared to the next. Therefore, because of the minimal difference in current employee compensation staff's recommendation is based on grouping two years together for each jump.

COST OF STEP PLAN

The following table summarizes the recommended appropriations to support the implementation of the step plan.

SUMMARY OF STAFF RECOMMENDATION FOR CORRECTIONAL OFFICER STEP PLAN			
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS
Salary	$11,728,056	$11,575,591	$152465
Medicare	170,057	$167,846	2,211
PERA	1,172,806	$1,157,560	15,246
Subtotal	*$13,070,919*	*$12,900,997*	*$169,922*
		$0	0
AED	$586,403	$578,780	$7,623
SAED	586,403	$578,780	7,623
STD	19,938	$19,679	259
Shift Differential	398,754	$393,570	5,184
Subtotal Centrally Appropriated	*$1,591,498*	*$1,570,809*	*2,0689*
TOTAL	**$14,662,417**	**$14,471,806**	**$190,611**

Based on conversations with the Office of Legislative Legal Services there is no clear statutory allowing or prohibiting the implementation of step plans within the Department of Corrections. Appropriating funds solely in the Long Bill does not guarantee the long-term implementation of the step plan.

Therefore, in order to implement the step plan as designed and in a stable manner, staff recommends legislation to clarify the authority of the Department and the purpose of the plan.

JBC Potential Bill # 2 – Eliminate the Department of Corrections persona services reversions to the SERF and allow these funds to revert to the General. Staff recommends the Committee the sponsor legislation to eliminate the Department of Corrections personal services reversion transfers to the SERF and allow these funds to revert to the General Fund. This change would enable personal services reversions from one fiscal year to cover the cost of step increases in the next fiscal year. Funds that are transferred to the SERF are legislative action to access and have not been used to pay for step increases.

➔ NURSE AND MID-LEVEL PROVIDER COMPENSATION ADJUSTMENT

REQUEST: The Department did not request this change but is aware of staff recommendation.

RECOMMENDATION: Staff recommends the adjustment to the nurse I, II, and III classifications, as well as the mid-level provider classification, be adjusted using the same methodology that is approved for the Department of Human Services R1 request. Based on the request from the Department of Human Services staff recommends an appropriation of $8,841,356 General Fund for nurse and mid-level provider compensation adjustment. The recommendation below

STAFF RECOMMENDATION FOR NURSE AND MID-LEVEL PROVIDER COMPENSATION ADJUSTMENT	
	GENERAL FUND
Base Salary Increase (including PERA and Medicare)	$7,808,536
Short-term Disability	13,294
AED	349,845
SAED	349,845
Shift Differential	319,836
Total	**$8,841,356**

ANALYSIS:

The Department of Human Services requested and received $2,853,305 General Fund in a FY 2017-18 September interim request for salary increases for registered nurses (Nurse I, II, and III) who worked at the Colorado Mental Health Institute – Pueblo (CMHIP). The Department of Human Services has requested for FY 2018-19 the continuation of these increases ($8,901,740 General Fund). The Department of Human Services increases are structured as follows:

- Newly hired CMHIP staff in the Nurse I, II, and III classifications are paid a starting salary that equals the midpoint of the corresponding State pay ranges for FY 2017-18. The FY 2017-18 funding assumes that half of the current vacancies will be filled for four months in FY 2017-18; projections for ongoing costs in FY 2018-19 assume all vacancies will be filled for the full fiscal year.

- Effective October 1, 2017, increase salaries for existing staff in the Nurse I, II, and III classifications to at least the midpoint of the corresponding State pay range for FY 2017-18. Salary increases will be limited to employees who are performing satisfactorily (based on a rating of 2 or 3 on the most recent performance evaluations). Existing employee's salaries will be increased above this midpoint based on the number of years employed by the State.[2]

Using the Department of Human Services' methodology for salary adjustments for the Nurse I, Nurse II, Nurse III, and Mid-level Providers at the Department of Corrections, would cost $8,841,356 General Fund. The cost includes current vacant positions at range midpoint, uses years of service in the current classification, and places current staff along the compression pay table used for the funding approved for the Department of Human Services.

Nurses and mid-level providers who are working in Department of Corrections' facilities, especially San Carlos, are on the same campus as the Department of Human Services nurses who are receiving these raises. It is unclear to staff why nurses who are doing similar job functions in institutional facilities should be treated differently. Therefore, staff recommends the Committee apply the same compensation methodology to the Department of Corrections nurses and mid-level providers that is provided to similarly classified staff in the Department of Human Services.

→ STAFF INITIATED PRISON, COMMUNITY CORRECTIONS, INTENSIVE SUPERVISION PROGRAM, AND PAROLE UTILIZATION

REQUEST: The Department did not request this change but is aware of the staff recommendation.

RECOMMENDATION: Staff recommends the Committee approve the following methodology for calculating the need for funding for state and private prison beds.

Step 1 – Select a prison population (this was accomplished in the previous decision item).
Step 2 – Establish utilization targets for community corrections, the intensive supervision program, and parole utilization.
Step 3 – Based on the utilization targets established in step 2, calculate the number of state and private prison beds.
Step 4 – For FY 2018-19 only, provide a buffer when calculating the number of private prison beds.

[2] Kampman, Carolyn. Department of Human Services, September 20, 2017 interim supplemental JBC Staff recommendation. Pages 22 and 23.

ANALYSIS:
The purpose of the recommended methodology is to allow the General Assembly to clearly state their utilization expectations and require the Department of Corrections, Community Corrections Boards and providers, and the Parole Board to take responsibility for action or inaction. Requiring and setting expectations will allow the General Assembly to have informed discussions during future Long Bill and supplementals about where utilization targets are not being met and why. Additionally this methodology eliminates the current issue the General Assembly has with how the Department submits their budget request. Instead of assuming the status quo for the upcoming fiscal year, the budgeting process for the Department of Corrections will be more fluid and reflective of the makeup of the total prison population numbers that are presented each December by the Division of Criminal Justice and Legislative Council staff.

Step 1 – Population Forecast
As stated in the previous decision item, staff recommends the Committee select the Division of Criminal Justice December 2017 Prison Population Forecast.

Step 2 – Utilization Expectations
Each of the utilization targets are independent of the others. Based on the discussions by various members of the General Assembly, staff recommends the Committee approve the following utilization targets for FY 2018-19.

- Utilization of community corrections transitions will be 8.0 percent by the end of FY 2018-19;
- Utilization of the Intensive Supervision Program – Inmate will be 3.0 percent by the end of FY 2018-19;
- The Parole Board will release on average 800 offenders a month (includes all types of parole releases).

Based on the recommended utilization targets, the following table summarizes how many offenders will require a state or private prison bed in FY 2018-19.

JBC STAFF PRISON POPULATION BED NEED BASED ON DCJ FORECAST			
	JULY 2018	DECEMBER 2018	JUNE 2019
Total Prison Population Projection	19,786	20,328	20,900
Inmates in Non-Prison Facilities			
Inmates in Community Corrections	(1,386)	(1,525)	(1,672)
Inmates on ISP-I	(297)	(407)	(627)
Other (includes hospital, fugitives)	(180)	(180)	(180)
Inmates in County Jails	(300)	(300)	(300)
Parole Releases (discretionary and mandatory)	(800)	(800)	(800)
Total Prison Population	**16,823**	**17,116**	**17,321**
Female Offenders	1,697	1,727	1,748
Male Offenders	15,126	15,389	15,573

Intensive Supervision Program
Increasing the number of offenders on Intensive Supervision Program – Inmate status will require some work on the part of the Department. The Department is aware of the staff recommendation and expressed some concern with the utilization target of 3.0 percent by the end of FY 2018-19 due to uncertainty of how to increase the number of offenders without overstepping their authority.

Statute already allows the Department to place offenders on Intensive Supervision Program – Inmate status. Section 17-27.5-101 (1)(a), C.R.S. states "the Department shall have the authority to establish and directly operate an intensive supervision program for any offender not having more than 180 days remaining until such offender's parole eligibility date and for any offender who successfully completes a regimented inmate discipline program." Additional requirements of offenders on Intensive Supervision Program – Inmate status include:

- Weekly face-to-face contact with their correctional officer;
- Daily phone contact;
- Drug and alcohol screening;
- Monthly monitored curfews; and
- Approval for placement by the appropriate Community Corrections Board.

Despite the Department's concerns, staff is recommending the utilization increase, which is based on the level of utilization from five years ago. The Department indicated that if this utilization target is approved they would create a workgroup to determine how to implement the increase. If the Committee wants a status update on the work of the Department, a request for information could be included, but staff does not see that as necessary because of the monthly population report. Staff anticipates presenting an update during the briefing for FY 2019-20.

Step 3 – Calculation of Number of State and Private Prison Beds
Based on the above utilization targets, the following table summarizes how many prison beds (both state and private) the Department will require funding for in FY 2018-19.

JBC STAFF CALCULATION OF PRISON BED NEED			
	JULY 2018	DECEMBER 2018	JUNE 2019
Female Offender Beds			
Female Prison Population	1,697	1,727	1,748
Available State Female Beds	1,716	1,716	1,716
Require Private Beds	**0**	**11**	**32**
Male Offender Beds			
Male Prison Population	15,126	15,389	15,573
Available State Male Beds	12,503	12,503	12,503
Available Private Prison Beds			
Private Prisons	3,098	3,097	3,096
Cheyenne Mountain Re-entry Center	702	703	704
Total Private Prison Beds	3,800	3,800	3,800
Required Private Prison Beds	**2,623**	**2,886**	**3,070**

Note that the additional female private beds are jail based because there are no female beds in the private prison facilities. Staff anticipates, if the female population continues to grow the General Assembly will be asked by the Department to vote on a long-term solution to the lack of female beds.

STEP 4 - PRIVATE PRISON BEDS

Male Population

Since private prison beds are the outlet used by the Department to accommodate changes in the male prison population and the staff recommendation based on the utilization targets would reduce the total prison population, the need for private prison beds is reduced. The FY 2017-18 appropriation excluding the supplemental changes funded 3,363 beds. As shown in the previous table, staff projects a need for 3,070 total beds.

CALCULATION OF PRISON BED NEED FOR MALE OFFENDERS			
	JULY 2018	DECEMBER 2018	JUNE 2019
Male Offender Beds			
Male Prison Population	15,126	15,389	15,573
Available State Male Beds	12,503	12,503	12,503
Available Private Prison Beds			
Private Prisons	3,098	3,097	3,096
Cheyenne Mountain Re-entry Center	702	703	704
Total Private Prison Beds	3,800	3,800	3,800
Required Private Prison Beds	**2,623**	**2,886**	**3,070**

Since the utilization targets will require work on the part of the Department of Corrections and increased accountability of the Parole Board (outside of the Department's control), staff is recommending the appropriation for FY 2018-19 private prison beds be held constant at the 3,362. This is intended to provide a buffer in beds in the event one of the agencies is unable to meet their utilization target. Additionally the current private prison population is about 3,800, staff anticipates it could take a couple of months to reduce the population. Therefore, it would not be surprising if the private prison population at the beginning of FY 2018-19 is greater than what staff projects. Staff acknowledges the recommended methodology is a shift from what is current practice, but does not believe that just because it is a shift should be a reason that utilization targets are not met by the end of FY 2018-19.

For informational purposes, the following table compares the need for private prison beds depending on which forecast is used.

COMPARISON OF PRIVATE PRISON BED NEED DEPENDING ON PRISON POPULATION FORECAST		
	DIVISION OF CRIMINAL JUSTICE FORECAST	LEGISLATIVE COUNCIL FORECAST
Female Offender Beds		
Female Prison Population	1,748	1,729
Available State Female Beds	1,716	1,716
Require Private Beds for Females	**32**	**13**
Male Offender Beds		
Male Prison Population	15,573	15,411
Available State Male Beds	12,503	12,503
Total Private Prison Beds	3,800	3,800
Required Private Prison Beds for Males	**3,070**	**2,908**

➔ R2/BA1B EXTERNAL CAPACITY

REQUEST: The Department requests an appropriation of $7,770,361 General Fund for private prison beds. The request would fund all available private prison beds (3,098 beds).

RECOMMENDATION:

Adjustment to the number of Beds in Private Prisons and the Cheyenne Mountain Re-entry Center

Staff recommends no adjustment to the number of private prison beds for male offenders based on the recommendation in the Staff Initiated Prison, Community Corrections, Intensive Supervision Program, and Parole Utilization, keeping funding at the FY 2017-18 level of 3,362 beds (pre supplemental funding).

Adjustment to Jail-based Beds

Staff recommends a reduction of $1,766,859 General Fund to reduce funding for jail based female beds.

ANALYSIS:

Male Offender Population

The Department's justification for the need for the new beds is based on existing practices of the Department, Community Corrections, and the Parole Board. The staff recommendation in the Staff Initiated Prison, Community Corrections, Intensive Supervision Program, and Parole Utilization establishes attainable utilization targets for each of these functions. If the staff recommended utilization targets are approved by the Committee, there is no need to expand the number of private prison beds. As stated in step 4 of the methodology staff is recommending the Committee set the FY 2018-19 appropriation at the level of the FY 2017-18 prior to the supplemental increase. Therefore, staff recommends no caseload increase for FY 2018-19. The recommendation includes a reduction of $2,077,720 cash funds from the State Criminal Alien Assistance Program based on the available fund balance. This reflects a continuation of the action taken during the supplemental process, but due to the status of the supplemental bill staff is reflecting the change independent of the supplemental for FY 2018-19. The State Criminal Alien Assistance Program was intended to defray the costs of incarcerating undocumented criminal immigrant. The cash fund historically received funding from the Federal Bureau of Justice Assistance, but no funding has been available since 2016.

Female Offender Population

The private prisons are not an outlet that can be used for the female population because they do not have female beds. If the female population exceeds the State female bed capacity, the Department is forced to use jail beds. Based on the female population projection, including the utilization targets, staff projects a need for 32 additional jail based beds above what was funded in FY 2017-18 (excluding the supplemental adjustments). The supplemental removed funding for 121 female jail based beds based on expanded state female bed capacity. Therefore, the caseload adjustment, accounting for the annualization of the supplemental results in a reduction of 89 jail based beds for females. Including the increased the number of jail based beds for female offenders, the recommendation removes these in FY 2018-19, hence the caseload adjustment is reflected as a reduction. The following table summarizes the calculation of staff recommendation.

JAIL BED RECOMMENDATION	
Annualize FY 2017-18 Supplemental Changes to ensure FY 2018-19 is not dependent on the FY 2017-18 supplemental changes	121
Number of Jail Beds Required for Female Offenders in Excess of State Bed Capacity for FY 2018-19	32
Total Number of Additional Jail Based Beds Required for Female Offenders Needed in FY 2018-19 (FY 2018-19 New Beds - Supplemental Annualization)	(89)
FY 2018-19 Daily Rate (excludes requested provider rate increase)	$54.39
Total FY 2018-19 Caseload Adjustment	**($1,766,859)**

➔ LINE ITEM DETAIL FOR (1)(B)(2) EXTERNAL CAPACITY

(B) EXTERNAL CAPACITY SUBPROGRAM

(2) Payments to House State Prisoners

Pursuant to statute, in-state private facilities are permitted to house state inmates with a custody level of medium or below. These private facilities are located in Colorado Springs, Bent County, and Crowley County. The correctional facilities at Brush, Huerfano County, Burlington, and Hudson are now closed. The appropriations in this subdivision pay for:

- Holding DOC inmates in county jails;
- Placing DOC inmates classified as medium or below in in-state private prison facilities and in the "pre-release and parole revocation facility" in Colorado Springs; and
- Placing inmates in "community return-to-custody" beds pursuant S.B. 03-252 . These beds are operated by community corrections providers.

PAYMENTS TO LOCAL JAILS AT A RATE OF $54.39 PER INMATE PER DAY

This line item is used to reimburse local jails for housing state inmates and parolees who have been sentenced to the Department of Corrections. These offenders fall into a number of categories, including:

- Offenders newly sentenced to the DOC by a court who are awaiting transport to DOC (DOC pays jails to hold these offenders starting 72 hours after they are sentenced).
- Technical parole violators.
- Parole violators who have committed new crimes.
- Inmates who have been regressed from community corrections and are awaiting return to prison.
- DOC inmates who have been placed in a jail that has a contract to house DOC offenders.

The jail population includes a number of parolees who have been arrested and do not have inmate status. Because they are not inmates, these offenders are not included in the DCJ or LCS inmate forecasts.

STATUTORY AUTHORITY: Title 17, Article 1, Part 2 (Use of private contract prisons), Section 17-1-105.5, C.R.S. (General Assembly sets the maximum reimbursement rate for private prisons, jails, and other contract facilities in the Long Bill).

REQUEST: The Department requests an appropriation of $13,887,507 General Fund. The request includes the following changes from the FY 2017-18 appropriation:

- An increase of $277,933 General Fund for R2 Prison Capacity to increase the number of county jail beds funded for female offenders by 14;
- An increase of $150,473 General Fund for R10 Community Provider Rate; and
- A reduction of $1,588,188 General Fund for the BA1B External Capacity Adjustment.

RECOMMENDATION: Staff recommends an appropriation of $13,280,430 General Fund. The recommendation includes the following differences from the request:

- No increase for R2 based on the staff prison bed recommendation;
- No increase for BA1B based on the staff prison bed recommendation;
- No increase for R10 Provider Rate Increase; and
- A reduction of $1,766,859 General Fund for the female external capacity caseload adjustment that accounts for the annualization of the supplemental increase. The recommendation assumes a daily rate of $54.39 per day.

Staff requests permission to adjust the line and line item name based on the final Committee policy for the FY 2018-19 community provider rate. The recommendation is calculated in accordance with Committee policy and outlined in the following table.

MANAGEMENT, EXTERNAL CAPACITY SUBPROGRAM, PAYMENTS TO LOCAL JAILS	TOTAL FUNDS	GENERAL FUND	FTE
FY 2017-18 APPROPRIATION			
SB 17-254 (Long Bill)	$15,033,694	$15,033,694	0.0
Other legislation	$13,595	$13,595	0.0
HB 17-1158 (Supplemental bill)	(2,402,134)	(2,402,134)	0.0
TOTAL	**$12,645,155**	**$12,645,155**	**0.0**
FY 2018-19 RECOMMENDED APPROPRIATION			
FY 2017-18 Appropriation	$12,645,155	$12,645,155	0.0
Annualize HB 18-1158 (Supplemental Bill)	2,402,134	2,402,134	0.0
R10 Community provider rate	0	0	0.0
R2/BA1a Prison capacity	0	0	0.0
BA1b External capacity	(1,766,859)	(1,766,859)	0.0
TOTAL	**$13,280,430**	**$13,280,430**	**0.0**
INCREASE/(DECREASE)	**$635,275**	**$635,275**	**0.0**
Percentage Change	5.0%	5.0%	0.0%
FY 2018-19 EXECUTIVE REQUEST	**$13,887,507**	**$13,887,507**	**0.0**
Request Above/(Below) Recommendation	$607,077	$607,077	0.0

PAYMENTS TO IN-STATE PRIVATE PRISONS AT A RATE OF $56.80 PER INMATE PER DAY

This line item is used to reimburse private prisons that house state prisoners. The rate for private facilities is higher than the rate for local jails because the private facilities provide more programming for inmates (i.e. educational programs, vocational programs, recreational programs, etc.). Section 17-

1-202, C.R.S., requires private prisons to provide a range of services to offenders. The cash funds derive from the State Criminal Alien Assistance Program Cash Fund.

STATUTORY AUTHORITY: Title 17, Article 1, Part 2 (Corrections Privatization), C.R.S. Section 17-1-107, C.R.S. (DOC can accept gifts, grants and donations for any purpose connected with the Department's work.), Section 17-1-107.5, C.R.S. (State Criminal Alien Assistance Program Cash Fund).

REQUEST: The Department requests an appropriation of $64,992,759 General Fund. The request includes the following changes from the FY 2017-18 appropriation:

- An increase of $5,368,054 General Fund for R2/BA1B Prison Capacity – External Capacity Adjustment; and
- An increase of $569,772 General Fund for R10 Provider Rate Increase.

RECOMMENDATION: Staff recommends an appropriation of $59,229,790 General Fund. The recommendation includes the following differences from the request:

- Technical adjustment of a reduction of $10,197 total funds to eliminate appropriations from the State Alien Criminal Assistance Program Cash Funds and provide funding for 2,848 private prison beds; and
- No change for R10 pending Committee policy on a FY 2018-19 community provider rate.

The following table summarizes the recommendation for the 3,362 external capacity beds based on the FY 2017-18 daily rate of $56.80 and the calculation of the number of non-state run prison beds needed using the Prison, Community Corrections, Intensive Supervision Program, and Parole Utilization. Note the calculation in the table does not include the 18 short-term beds for R2d Buena Vista Controlled Maintenance Project.

CALCULATION OF NON-STATE PRISON BED APPROPRIATION	
Total Non-state Run Prison Beds	3,800
Percentage at Private Prison	84.7%
Percentage at Cheyenne Mountain Re-entry Center	15.3%
Total Non-state Beds Recommended for FY 2018-19	3,362
Number at Private Prison	2,848
Number at Cheyenne Mountain Re-entry Center	514
Base Daily Rate	$56.80
Provider Rate	0.0%
Total Daily Rate	$56.80
Total Recommendation	
Private Prisons	**$59,044,736**
Cheyenne Mountain Re-entry Center	**$10,656,248**

Staff requests permission to adjust the line based on the Committee's final FY 2018-19 community provider rate policy. The recommendation is calculated in accordance with Committee policy and outlined in the following table.

MANAGEMENT, EXTERNAL CAPACITY SUBPROGRAM, PAYMENTS TO IN-STATE PRIVATE PRISONS				
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FTE
FY 2017-18 APPROPRIATION				
SB 17-254 (Long Bill)	$61,220,653	$59,142,933	$2,077,720	0.0
HB 17-1158 (Supplemental bill)	$5,183,000	$5,760,720	($577,720)	0.0
Other legislation	(2,165,720)	(2,165,720)	0	0.0
TOTAL	**$64,237,933**	**$62,737,933**	**$1,500,000**	**0.0**
FY 2018-19 RECOMMENDED APPROPRIATION				
FY 2017-18 Appropriation	$64,237,933	$62,737,933	$1,500,000	0.0
R2b Buena Vista controlled maintenance bed need	185,054	185,054	0	0.0
R10 Community provider rate	0	0	0	0.0
Annualize HB 18-1158 (Supplemental Bill)	(5,183,000)	(5,760,720)	577,720	0.0
BA1b External capacity	(10,197)	2,067,523	(2,077,720)	0.0
TOTAL	**$59,229,790**	**$59,229,790**	**$0**	**0.0**
INCREASE/(DECREASE)	**($5,008,143)**	**($3,508,143)**	**($1,500,000)**	**0.0**
Percentage Change	(7.8%)	(5.6%)	(100.0%)	0.0%
FY 2018-19 EXECUTIVE REQUEST	**$64,992,759**	**$64,992,759**	**$0**	**0.0**
Request Above/(Below) Recommendation	$5,762,969	$5,762,969	$0	0.0

PAYMENTS TO PRE-RELEASE AND PAROLE REVOCATION FACILITIES AT A RATE OF $56.02 PER INMATE PER DAY

Pursuant to Section 17-206.5, C.R.S., DOC is authorized to contract with a private prison to serve as a pre-parole and parole revocation facility. The population eligible for placement in the facility includes inmates who are within 19 months of their parole eligibility date for nonviolent offenses and parolees whose parole has been revoked for a period not to exceed 180 days. Parolees are not eligible if their parole was revoked for a new crime.

STATUTORY AUTHORITY: Section 17-1-206.5 (1), C.R.S. (Preparole Release and Revocation Facility – Community Return-to-custody Facility).

REQUEST: The Department requests an appropriation of $14,663,406 General Fund. The request includes the following the changes from the FY 2017-18:

- An increase of $3,897,616 total funds for R2/BA1B Prison Capacity; and
- An increase of $106,592 General Fund for R10 Provider Rate Increase.

RECOMMENDATION: Staff recommends an appropriation of $10,659,198 General Fund. The recommendation includes the following differences from the request:

- No increase for R2/BA12B Prison Capacity – External Capacity Adjustment;
- No change for private prison beds in accordance with the staff recommendation on the staff prison bed need; and
- No change for R10 pending Committee policy on a FY 2018-19 community provider rate.

Staff requests permission to adjust the line based on the Committee's final FY 2018-19 community provider rate policy. The recommendation is calculated in accordance with Committee policy and outlined in the following table.

MANAGEMENT, EXTERNAL CAPACITY SUBPROGRAM, PAYMENTS TO PRE-RELEASE PAROLE REVOCATION FACILITIES			
	TOTAL FUNDS	GENERAL FUND	FTE
FY 2017-18 APPROPRIATION			
SB 17-254 (Long Bill)	$11,742,058	$11,742,058	0.0
HB 17-1158 (Supplemental bill)	$2,943,944	$2,943,944	0.0
Other legislation	(1,082,860)	(1,082,860)	0.0
TOTAL	**$13,603,142**	**$13,603,142**	**0.0**
FY 2018-19 RECOMMENDED APPROPRIATION			
FY 2017-18 Appropriation	$13,603,142	$13,603,142	0.0
R10 Community provider rate	0	0	0.0
R2/BA1a Prison capacity	0	0	0.0
BA1b External capacity	0	0	0.0
Annualize HB 18-1158 (Supplemental Bill)	(2,943,944)	(2,943,944)	0.0
TOTAL	**$10,659,198**	**$10,659,198**	**0.0**
INCREASE/(DECREASE)	**($2,943,944)**	**($2,943,944)**	**0.0**
Percentage Change	(21.6%)	(21.6%)	0.0%
FY 2018-19 EXECUTIVE REQUEST	**$14,663,406**	**$14,663,406**	**0.0**
Request Above/(Below) Recommendation	$4,004,208	$4,004,208	0.0

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Megan Davisson, JBC Staff (303-866-2062)
DATE	March 19, 2018
SUBJECT	Department of Corrections Specialized Bed RFI

During the March 14, 2018 Department of Corrections and Department of Public Safety, Division of Criminal Justice figure setting the Committee requested a draft of a request for information on the number and type of specialized beds within the Department of Corrections.

> Department of Corrections, Institutions – The Department is requested to provide by November 1, 2018 information on the number and type of specialized treatment beds within the correctional facilities operated by the Department. The information submitted by the Department should include, at a minimum, the following information: the types of specialized treatment beds, the number of specialized treatment beds by type and location, the number of offenders receiving services, the number of the offenders waiting for each type of specialized bed, the cost per bed, the requirements for an offender to fill one of the specialized beds, and the services provided in those beds.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Craig Harper, JBC Staff (303-866-3481)
DATE	March 14, 2018
SUBJECT	Staff Comeback for Department of Education R6 (CSI Mill Levy Equalization)

During figure setting for the Department of Education on March 13, 2018, the Committee requested additional information on the anticipated distribution of Charter School Institute (CSI) mill levy equalization funds requested through request R6.

Department Request: The Department requested an increase of $11.0 million total funds, including $5,523,862 General Fund and the same amount of reappropriated funds, to support payments to equalize local mill levy override revenues for CSI schools.

Staff Recommendation: Based on uncertainty about the intended timing of CSI mill levy equalization (in H.B. 17-1375) as well as the disconnect between the Department's calculations and the statutory distribution of funds, staff recommended denying the request for a Long Bill appropriation in FY 2018-19.

New Information: Given that the distribution of funds required by H.B. 17-1375 differs from the original calculations underlying request R6, the Committee asked for a comparison of the anticipated distribution of funds under each scenario (see the following table, based on data provided by CSI). Please note the following:

- Staff understands that the Department will distribute any funds appropriated for FY 2018-19 according to the statute (the second scenario in the following table). The Committee could appropriate any amount up to an estimated $25.2 million for CSI mill levy equalization and remain within the ceiling provided in H.B. 17-1375. The Department will have to distribute any amount that you appropriate according to the methodology in H.B. 17-1375.
- The Department continues to request $5,523,862 (calculated using the original methodology) to be distributed according to the statutory methodology.

R6 - CSI Mill Levy Equalization Preliminary Calculation				
Geographic District	School Name	Override Funding at Full Equalization (2016-17 Revenues)	Distribution Under Original Calculation in R6	Distribution Under Statute (H.B. 17-1375)
Adams 12 Five Star	Academy of Charter Schools	$1,973,093	$59,192	$601,676
Adams 12 Five Star	Global Village Academy - Northglenn	978,130	29,344	298,271
Adams 12 Five Star	New America School - Thornton	391,234	11,737	119,303
Adams 12 Five Star	Pinnacle Charter School Elementary	1,248,036	37,441	380,577
Adams 12 Five Star	Pinnacle Charter School High	543,893	16,317	165,855
Adams 12 Five Star	Pinnacle Charter School Middle	375,585	11,268	114,531
Aurora	Colorado Early College - Aurora	281,809	134,986	85,216
Aurora	Montessori Del Mundo	239,470	114,706	72,414
Aurora	New America School - Lowry	450,894	215,978	136,346
Aurora	New Legacy Charter High School	121,741	58,314	36,814
Brighton 27J	High Point Academy	31,024	31,769	31,024

R6 - CSI MILL LEVY EQUALIZATION PRELIMINARY CALCULATION				
GEOGRAPHIC DISTRICT	SCHOOL NAME	OVERRIDE FUNDING AT FULL EQUALIZATION (2016-17 REVENUES)	DISTRIBUTION UNDER ORIGINAL CALCULATION IN R6	DISTRIBUTION UNDER STATUTE (H.B. 17-1375)
Calhan	Frontier Charter Academy	0	0	0
Colo. Springs 11	Colorado Military Academy	609,458	224,890	182,370
Colo. Springs 11	Colo. Springs Charter Academy	541,087	199,661	161,911
Colo. Springs 11	Colo. Springs Early Colleges	768,913	283,729	230,084
Colo. Springs 11	Global Village Academy - Colo. Springs	456,176	168,329	136,503
Colo. Springs 11	James Irwin Charter Academy	353,130	130,305	105,668
Colo. Springs 11	Launch High School	91,130	33,627	27,269
Colo. Springs 11	Mountain Song Community School	374,022	138,014	111,920
Colo. Springs 11	Pikes Peak Prep	304,717	112,441	91,182
Colo. Springs 11	Thomas MacLaren State Charter School	563,870	208,068	168,729
Commerce City	Community Leadership Academy	375,989	0	166,070
Commerce City	Victory Prep Academy High	142,771	0	63,060
Commerce City	Victory Prep Academy Middle	177,499	0	78,399
Douglas	Colorado Early Colleges - Douglas	269,305	274,960	174,182
Durango	Animas High School	625,334	90,723	95,102
Durango	Mountain Middle School	560,335	99,432	85,216
Eagle	Stone Creek School	745,298	756,477	101,714
East Grand	Indian Peaks Charter School	57,389	0	10,478
Mesa Valley	Caprock Academy	341,633	0	272,693
Mesa Valley	Monument View Montessori	12,256	0	9,783
Poudre	Colorado Early College - Fort Collins	1,428,407	621,357	374,952
Poudre	Global Village Academy - Fort Collins	378,268	164,547	99,294
Poudre	T.R. Paul Academy of Arts and Knowledge	263,216	114,499	69,094
Roaring Fork	Ross Montessori School	534,451	534,451	103,800
Roaring Fork	Two Rivers Community School	495,278	495,278	96,192
Salida	Salida Montessori Charter School	125,020	0	29,587
Steamboat	Mountain Village Montessori	249,216	152,022	43,426
Westminster 50	Crown Pointe Charter Academy	459,430	0	154,808
Westminster 50	Early College of Arvada	389,467	0	131,233
Westminster 50	Ricardo Flores Magnon Academy	317,886	0	107,114
Total		**$18,645,860**	**$5,523,862**	**$5,523,860**

*Total includes a $2.00 difference due to rounding.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (telephone (303) 866-4960)
DATE	March 19, 2018
SUBJECT	Set-aside for Teacher Residencies

The Governor's November 1, 2017 budget submission cover letter (page 21) identified a proposed set-aside of $200,000 General Fund for "legislation…that would create a $200,000 General Fund pilot program for teacher training."

OSPB staff and advocates indicate that this set-aside is for H.B. 18-1189 (Expanding Effective Teacher Residency Programs by Petterson & Sias/Hill & Todd). This bill requires the Colorado Department of Education to contract with two contracting entities to expand teacher residency programs on a pilot basis. The fiscal note indicates a need for one-time funds of $200,000 in FY 2018-19, with $100,000 for an institution of higher education and $100,000 for an alternative teacher program provider (school district or BOCES) to provide the services.

As there was no request for a JBC bill associated with this set-aside, JBC staff did not previously bring this item to the Committee's attention. However, **to enable the Committee to finalize its Long Bill package, staff recommends a vote on whether or not the Committee wishes to include this $200,000 General Fund set-aside in its package.**

Staff notes that the Committee has thus far voted:

- To establish a $2,000,000 Marijuana Tax Cash Funds set-aside for a JBC bill to support educator preparation programs through the Department of Higher Education (bill draft available for review this week); and
- To reject an executive request for an $8,000,000 Marijuana Tax Cash Fund set-aside and associated legislation in the Department of Education to address teacher shortages.

It appears to staff that this $200,000 could be accommodated within the $8,000,000 one-time MTCF amount that has not yet been tied to specific legislation and that this General Fund set-aside could therefore be released; however, staff does not know what other plans the Committee may have related to set-asides for educator preparation programs.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Amanda Bickel, JBC Staff (telephone (303) 866-4960)
DATE	March 19, 2018
SUBJECT	**Colorado Opportunity Scholarship Initiative Revised Recommendation - Bill #15**

Staff previously recommended, and the JBC approved, increasing the General Fund appropriation for the Colorado Opportunity Scholarship Initiative (COSI) from $5,000,000 to $7,000,000 (instead of the $9,000,000 requested by the Department) and a bill that would enable the Department to continue to spend on student support activities while spending down the COSI fund balance. *Staff is modifying the recommendation related to the bill but not the appropriation.*

Based on further discussions with the Department**, staff recommends that the Committee <u>not</u> sponsor a bill and instead submit a Request for Information.** Staff and the Department have not been able to reach agreement on a statutory change that would address both Department and staff concerns, i.e., that would allow the program's "corpus" to be expended while still allowing stable levels of funding for student support initiatives and administration. *The Department wishes to include the COSI Board and stakeholders in a more serious discussion of potential statutory changes to the program.* Staff recognizes that a new administration may have a different perspective on how this program should proceed; however, staff hopes that the COSI Board members will be able to present a functional statutory structure for the program. Staff assumes that if the new administration has a different perspective, this will become evident in the first few months of the 2019, before any new legislation moves forward.

The suggested language is as follows:

<u>N</u> Colorado Department of Higher Education, Colorado Commission on Higher Education, Administration and Colorado Commission on Higher Education Financial Aid, Special Purpose, Colorado Opportunity Scholarship Initiative -- Based on consultation with the Colorado Opportunity Scholarship Initiative Advisory Board created in Section 23-3.3-1004, C.R.S., the department is requested to submit a proposal, by October 1, 2018, for statutory changes to enable responsible spend-down of the program's corpus without disrupting the program. This proposal may include:

- A proposal to ensure that amounts committed for scholarships in current and future years are protected until they are used.
- A proposal for statutory changes, which may include changes to Section 23-3.3-1005 (4) and 23-3.3-1004 (4)(a)(III)(A), C.R.S., to ensure that all components of the initiative, including student support activities, scholarships, and administrative and technical support, may be annually funded at a level deemed appropriate by the General Assembly and the Board while the corpus is expended.

This proposal may also include any other changes recommended by the Board and the Department to support the program's ongoing success.

Related Issue - extending to other institutions: The Committee had also expressed interest in using a bill to *allow private nonprofit higher education institutions that are eligible for the COF stipend to participate in the COSI program* (as suggested by Senator Moreno). The entities affected would be University of Denver, Regis, and Colorado Christian University.

Staff suggests that any changes in this area could also wait until next year, particularly if the COSI Board and the Department choose to submit a proposal for more comprehensive changes to the program. However, if the Committee wishes to sponsor a bill to address this issue now, staff could reformulate the RFI into a statutory requirement for a report.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Carolyn Kampman, JBC Staff (303-866-4959)
DATE	March 15, 2018
SUBJECT	Staff Comeback Concerning DHS, Office of Behavioral Health, R1b (Compensation adjustments for nurses at CMHIP)

On March 6, 2018, the Committee tabled one decision item that affects the Department of Human Services' Office of Behavioral Health. **The staff recommendation is for a $5,985,692 General Fund increase for FY 2018-19 to provide a full year of funding for nurse salary increases that the Committee approved last September.** Staff has included below the relevant excerpt from the figure setting document for the Office of Behavioral Health. Following this excerpt, staff has provided additional information the Department has provided to respond to questions the Committee raised during my figure setting presentation concerning:

(a) Vacancy rates at the Colorado Mental Health Institute at Pueblo (CMHIP);
(b) the culture at CMHIP; and
(c) the average cost per patient should the pay increase be approved.

➔ R1b COMPENSATION ADJUSTMENTS FOR NURSES AT CMHIP

REQUEST: In September 2017, the Department requested $2,853,305 General Fund for FY 2017-18 to increase salaries for three classifications of registered nurses (I, II, and III) at the Colorado Mental Health Institute at Pueblo (CMHIP). The Department proposed increasing the starting salaries for newly hired staff and the salaries of existing staff to ensure staffing levels are sufficient to provide safe and appropriate patient care. The Department also submitted a companion request for a total of $8,964,483 General Fund to cover the full year costs of the proposed salary increases in FY 2018-19.

RECOMMENDATION: **Consistent with Committee action on and General Assembly approval of the FY 2017-18 request, staff recommends approving the request for full year funding in FY 2018-19.** For FY 2017-18, the Committee approved a staff recommendation for $2,978,791 General Fund, an amount that was $125,486 higher than the request to correct an oversight in the request related to shift differential. Staff recommends appropriating $8,964,483 General Fund for FY 2018-19, an amount that includes $62,743 more than requested to correct an error in the Department's FY 2018-19 request related to shift differential.

ANALYSIS: The federal Centers for Medicare and Medicaid Services (CMS) placed CMHIP on "immediate jeopardy" twice in 2017 for two separate sets of findings related to violations of standards required for a facility to participate in the Medicare and Medicaid programs. "Immediate jeopardy" status is reserved for violations that CMS deems an immediate threat to patient safety, and the timeframe for achieving compliance is 23 days. The second immediate jeopardy finding concerned insufficient staffing levels that were identified by the Colorado Department of Public Health and Environment (CDPHE) during a site visit on June 2, 2017.

Following the site visit in early June, the Department took several actions to address the staffing shortfall at CMHIP. Despite these actions, the Department indicated that the number of vacant positions is still too high to ensure the health and safety of patients at CMHIP.

The Department requested funding to increase salaries for new and existing nurses at CMHIP. Specifically, the Department proposed paying newly hired CMHIP staff in the Nurse I, II, and III classifications a starting salary that equals the midpoint of the corresponding State pay ranges for FY 2017-18. The request assumed that half of the current vacancies would be filled for four months in FY 2017-18, and projections for ongoing costs in FY 2018-19 assumed all vacancies would be filled for the full fiscal year. The request assumed that, effective 10/1/17, salaries for existing staff in the Nurse I, II, and III classifications would be increased to at least the midpoint of the corresponding State pay range for FY 2017-18, with additional funding above this midpoint based on the number of years employed by the State.

Staff prepared the following table to identify the proposed monthly salaries for each classification based on years of State service. At the bottom of the table, staff calculated the resulting pay distribution within the existing State pay ranges.

Proposed Compression Salary Adjustments for Existing Staff							
Class Title	New Hire	Years of Service with State					
		1 - 2	2 - 3	3 - 4	4 - 5	5 - 10	Over 10
Nurse I	$6,234	$6,265	$6,296	$6,328	$6,359	$6,390	$6,421
Nurse II	$6,765	$6,799	$6,833	$6,866	$6,900	$6,934	$6,968
Nurse III	$7,340	$7,377	$7,413	$7,450	$7,487	$7,524	$7,560
Experience Adjustment		*0.5%*	*1.0%*	*1.5%*	*2.0%*	*2.5%*	*3.0%*
Resulting Percentile Within FY 2017-18 Department of Personnel Salary Ranges :							
Nurse I	50.0%	51.4%	52.7%	54.0%	55.3%	56.7%	58.0%
Nurse II	50.0%	51.2%	52.4%	53.7%	54.9%	56.1%	57.3%
Nurse III	50.0%	51.2%	52.4%	53.7%	54.9%	56.1%	57.3%

COMMITTEE ACTION: Staff recommended, and the Committee approved the FY 2017-18 request with one adjustment to correct an oversight. The Department confirmed that the request should have included funding to cover the associated increased cost of paying shift differential. The recommendation included an additional $125,486 General Fund, the amount that the Department indicates would be needed for shift differential for FY 2017-18 should the Committee approve funding for the proposed salary adjustments. The following table details the approved appropriation increases totaling $2,978,791 General Fund for FY 2017-18 as well as the anticipated full-year costs in FY 2018-19.

Summary of Recommendation for ES-03: Compensation Adjustments for Nurses at CMHIP			
Description	FY 2017-18	FY 2018-19	Annual Change
Executive Director's Office			
General Administration			
Health, Life, and Dental	$77,950	$467,704	$389,754
Short-term Disability	4,329	12,962	8,633
S.B. 04-257 AED	113,941	341,102	227,161
S.B. 06-235 SAED	113,941	341,102	227,161
Shift Differential	125,486	188,229	62,743
Subtotal	**435,647**	**1,351,098**	**915,451**
Office of Behavioral Health			

SUMMARY OF RECOMMENDATION FOR ES-03: COMPENSATION ADJUSTMENTS FOR NURSES AT CMHIP			
Description	FY 2017-18	FY 2018-19	Annual Change
Mental Health Institutes			
Mental Health Institute at Pueblo			
Personal Services			
Salary	2,278,803	6,822,030	4,543,227
PERA	231,298	692,436	461,138
Medicare	33,043	98,919	65,877
Subtotal	**2,543,144**	**$7,613,385**	**5,070,241**
Total General Fund	**$2,978,791**	**$8,964,483**	**$5,985,692**

The Committee also sent letters to the Department of Human Services (DHS) and the Department of Personnel and Administration (DPA) stating the Committee's intent that the implementation of the proposed pay increases for existing staff (called compression pay) **be contingent on written approval by the DPA** to ensure that the plan:

- is consistent with State Personnel Rules;
- appropriately considers relevant factors such as experience and past performance; and
- does not create a precedence or basis for state employees at other state facilities or agencies to allege discrimination or require compression pay adjustments other than those specifically proposed by the Department of Human Services for registered nurses at CMHIP.

June Taylor, Executive Director of DPA, sent a letter to the Committee dated October 18, 2017, indicating that she reviewed the DHS supplemental request and approves the plan for compression adjustments. DHS indicates that the proposed pay increases went into effect November 1, 2017.

DEPARTMENT RESPONSES TO QUESTIONS FROM JBC MEMBERS DURING FIGURE SETTING PRESENTATION

Vacancy Rates

During the figure setting presentation, staff verbally provided vacancy rate data for direct care staff at CMHIP. The vacancy data and information that was provided by the Department in response to staff's request is provided below.

Staff also notes that on March 6, the Department announced the hiring of a new Chief Executive Officer (CEO) and a Chief Nursing Officer (CNO) for CMHIP. Jill Marshall will begin serving as CEO on March 26. Marshall served in the Texas Department of Assistive and Rehabilitative Services before joining the New Mexico Department of Health in 2011 as Services Coordination Manager, then Deputy Director and finally CEO for the same state agency. Ronda Katzenmeyer, the new CNO, has worked at CMHIP since July 2014, following a 12-year career with the Colorado Department of Corrections. During her time at Corrections, she held positions as Quality Program Administrator and Health Services Administrator. Her roles at CMHIP have included Lead Nurse for almost two years and then Program Chief Nurse from April 2016 to present.

Request: **For purposes of allowing me to update the JBC at the time they make decisions about funding for FY 2018-19, please provide the most recent data and information about the Department's progress in filling permanent, direct care positions at CMHIP. The Committee is concerned about the current need for 36 temporary positions, extra contract medical staff, and the significant overtime pay. The Committee sees this facility as a high**

risk, and wants regular updates that allow them to monitor the Department's progress in achieving appropriate, sustainable staffing levels.

Department response: "The Department continues to analyze recruitment options, including subscribing to online job posting sites, offering hiring and referral bonuses, reviewing staff scheduling options, increasing employee recognition efforts, improving communication, as well as building the psych tech program to address the vacancy and turnover rates. The Department is currently reviewing staff scheduling and staff job classifications in order to maximize efficiencies, and any excess vacant positions are being closed.

Table 1, provides the most current position status and vacancy rate data for direct care positions at CMHIP as of February 20, 2018. Direct care positions include the classifications of Client Care Aide, Clinical Security Officer, Health Care Services Trainee, Healthcare Technicians, Mental Health Clinicians and Nurses I-III.

Table 1

CDHS OBH POSITION STATUS & VACANCY RATE 2017 - 2018

C-STAT DIRECT CARE POSITIONS

Count of Name		Pos Status			
Agency	**MONTH**	**FILLED**	**VACANT**	**Grand Total**	**Vacant Rate**
C M H I AT PUEBLO	1/17/2017	528	84	612	**13.73%**
	2/13/2017	530	83	613	**13.54%**
	3/13/2017	533	70	603	**11.61%**
	4/17/2017	523	82	605	**13.55%**
	5/15/2017	522	83	605	**13.72%**
	6/12/2017	527	78	605	**12.89%**
	7/31/2017	519	90	609	**14.78%**
	8/14/2017	513	96	609	**15.76%**
	9/18/2017	514	96	610	**15.74%**
	10/16/2017	518	111	629	**17.65%**
	11/20/2017	516	113	629	**17.97%**
	12/18/2017	513	117	630	**18.57%**
	1/16/2018	519	118	637	**18.52%**
	2/20/2018	515	122	637	**19.15%**

The Department is aware that the numbers for nursing positions still show a consistent vacancy rate throughout the year. However, we have heard from nurses that the November pay increases resulted in their retention while they await the larger cultural improvement at CMHIP. The larger cultural improvement is underway and will take longer than the four months since the pay increases in November. The hospital is making progress on this initiative and has developed a strategic cultural improvement plan that includes current efforts for leadership training and supports of mid-level management and supervisors. The plan also includes new efforts for employee engagement and recognition. CMHIP is also in the final stages of hiring a new Chief Executive Officer and Chief Nursing Officer to lead this culture initiative.

In the previous year, the Department provided a similar pay-increase to direct-care employees at each of the State's Regional Centers. This increase resulted in a positive change in the retention and turnover rates in each of the three regional centers over the course of the year. In an effort to ensure the same success occurs at CMHIP, the Department will continue its recruitment efforts within Pueblo while advertising the new competitive pay range previously approved by the JBC."

TABLE 2: CMHIP POSITION HISTORY FOR C-STAT DIRECT CARE by MONTH and CLASS TITLE 1/17/2017--2/20/2018

	1/17/2017				2/13/2017				3/13/2017			
Class Titles	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate
CLIENT CARE AIDE I	2		2	0.00%	2		2	0.00%	2		2	0.00%
CLIENT CARE AIDE II	68	5	73	6.85%	64	8	72	11.11%	65	6	71	8.45%
CORR/YTH/CLIN SEC OFF II	16	1	17	5.88%	16	1	17	5.88%	16		16	0.00%
HCS TRAINEE I	8		8	0.00%	8	1	9	11.11%	8	1	9	11.11%
HCS TRAINEE II	7	3	10	30.00%	9	1	10	10.00%	9	2	11	18.18%
HEALTH CARE TECH I	44	10	54	18.52%	46	9	55	16.36%	47	7	54	12.96%
HEALTH CARE TECH II	45	9	54	16.67%	42	13	55	23.64%	44	11	55	20.00%
HEALTH CARE TECH III	31		31	0.00%	30	1	31	3.23%	30	2	32	6.25%
MENTAL HLTH CLINICIAN I	77	5	82	6.10%	80	1	81	1.23%	80	2	82	2.44%
MENTAL HLTH CLINICIAN II	17	1	18	5.56%	18		18	0.00%	18		18	0.00%
NURSE I	174	44	218	20.18%	176	42	218	19.27%	175	34	209	16.27%
NURSE II	16	2	18	11.11%	16	2	18	11.11%	17	1	18	5.56%
NURSE III	23	4	27	14.81%	23	4	27	14.81%	22	4	26	15.38%
Grand Total	**528**	**84**	**612**	**13.73%**	**530**	**83**	**613**	**13.54%**	**533**	**70**	**603**	**11.61%**

	4/17/2017				5/15/2017				6/12/2017			
Class Titles	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate
CLIENT CARE AIDE I	2		2	0.00%	2		2	0.00%	2		2	0.00%
CLIENT CARE AIDE II	62	8	70	11.43%	64	8	72	11.11%	67	4	71	5.63%
CORR/YTH/CLIN SEC OFF II	16		16	0.00%	16		16	0.00%	15	1	16	6.25%
HCS TRAINEE I	8	1	9	11.11%	8	1	9	11.11%	8		8	0.00%
HCS TRAINEE II	8	3	11	27.27%	8	3	11	27.27%	13	1	14	7.14%
HEALTH CARE TECH I	47	7	54	12.96%	47	6	53	11.32%	47	6	53	11.32%
HEALTH CARE TECH II	43	12	55	21.82%	43	11	54	20.37%	44	9	53	16.98%
HEALTH CARE TECH III	30	2	32	6.25%	29	3	32	9.38%	27	4	31	12.90%
MENTAL HLTH CLINICIAN I	82	1	83	1.20%	83	8	91	8.79%	86	5	91	5.49%
MENTAL HLTH CLINICIAN II	18		18	0.00%	18		18	0.00%	18		18	0.00%
NURSE I	169	41	210	19.52%	168	34	202	16.83%	165	36	201	17.91%
NURSE II	17	3	20	15.00%	16	5	21	23.81%	16	7	23	30.43%
NURSE III	21	4	25	16.00%	20	4	24	16.67%	19	5	24	20.83%
Grand Total	**523**	**82**	**605**	**13.55%**	**522**	**83**	**605**	**13.72%**	**527**	**78**	**605**	**12.89%**

	7/31/2017				8/14/2017				9/18/2017			
Class Titles	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate
CLIENT CARE AIDE I	2		2	0.00%	2		2	0.00%	2		2	0.00%
CLIENT CARE AIDE II	68	9	77	11.69%	70	7	77	9.09%	76	2	78	2.56%
CORR/YTH/CLIN SEC OFF II	14	1	15	6.67%	14	1	15	6.67%	15		15	0.00%
HCS TRAINEE I	8		8	0.00%	7	1	8	12.50%	7	1	8	12.50%
HCS TRAINEE II	13	5	18	27.78%	12	6	18	33.33%	10	8	18	44.44%
HEALTH CARE TECH I	46	5	51	9.80%	47	4	51	7.84%	43	8	51	15.69%
HEALTH CARE TECH II	44	5	49	10.20%	43	6	49	12.24%	41	8	49	16.33%
HEALTH CARE TECH III	27	4	31	12.90%	26	5	31	16.13%	25	6	31	19.35%
MENTAL HLTH CLINICIAN I	85	7	92	7.61%	85	7	92	7.61%	89	4	93	4.30%
MENTAL HLTH CLINICIAN II	18		18	0.00%	18		18	0.00%	18	1	19	5.26%
NURSE I	159	40	199	20.10%	152	47	199	23.62%	150	44	194	22.68%
NURSE II	18	7	25	28.00%	20	5	25	20.00%	23	6	29	20.69%
NURSE III	17	7	24	29.17%	17	7	24	29.17%	15	8	23	34.78%
Grand Total	**519**	**90**	***609**	**14.78%**	**513**	**96**	**609**	**15.76%**	**514**	**96**	***610**	**15.74%**

TABLE 2 (CONTINUED): CMHIP POSITION HISTORY FOR C-STAT DIRECT CARE by MONTH and CLASS TITLE 1/17/2017--2/20/2018												
	10/16/2017				11/20/2017				12/18/2017			
Class Titles	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate
CLIENT CARE AIDE I	2		2	0.00%	2		2	0.00%	2		2	0.00%
CLIENT CARE AIDE II	82	2	84	2.38%	77	9	86	10.47%	77	9	86	10.47%
CORR/YTH/CLIN SEC OFF II	15		15	0.00%	14	1	15	6.67%	12	3	15	20.00%
HCS TRAINEE I	20	6	26	23.08%	18	8	26	30.77%	15	11	26	42.31%
HCS TRAINEE II	8	10	18	55.56%	9	9	18	50.00%	8	10	18	55.56%
HEALTH CARE TECH I	41	9	50	18.00%	44	6	50	12.00%	41	10	51	19.61%
HEALTH CARE TECH II	42	8	50	16.00%	41	9	50	18.00%	41	9	50	18.00%
HEALTH CARE TECH III	23	8	31	25.81%	23	8	31	25.81%	25	5	30	16.67%
MENTAL HLTH CLINICIAN I	88	3	91	3.30%	85	3	88	3.41%	83	5	88	5.68%
MENTAL HLTH CLINICIAN II	18	2	20	10.00%	20	1	21	4.76%	19	3	22	13.64%
NURSE I	143	44	187	23.53%	145	38	183	20.77%	137	44	181	24.31%
NURSE II	22	10	32	31.25%	26	13	39	33.33%	39	4	43	9.30%
NURSE III	14	9	23	39.13%	12	8	20	40.00%	14	4	18	22.22%
Grand Total	518	111	*629	17.65%	516	113	629	17.97%	513	117	*630	18.57%

	1/16/2018				2/20/2018			
Class Titles	FILLED	VACANT	Total Positions	Vacancy Rate	FILLED	VACANT	Total Positions	Vacancy Rate
CLIENT CARE AIDE I	2		2	0.00%	2		2	0.00%
CLIENT CARE AIDE II	76	12	88	13.64%	72	16	88	18.18%
CORR/YTH/CLIN SEC OFF II	12	3	15	20.00%	14	1	15	6.67%
HCS TRAINEE I	20	6	26	23.08%	20	6	26	23.08%
HCS TRAINEE II	12	6	18	33.33%	11	7	18	38.89%
HEALTH CARE TECH I	42	9	51	17.65%	41	10	51	19.61%
HEALTH CARE TECH II	40	10	50	20.00%	40	10	50	20.00%
HEALTH CARE TECH III	26	4	30	13.33%	26	4	30	13.33%
MENTAL HLTH CLINICIAN I	81	5	86	5.81%	77	9	86	10.47%
MENTAL HLTH CLINICIAN II	19	4	23	17.39%	22	1	23	4.35%
NURSE I	134	53	187	28.34%	136	50	186	26.88%
NURSE II	39	4	43	9.30%	38	7	45	15.56%
NURSE III	16	2	18	11.11%	16	1	17	5.88%
Grand Total	519	118	*637	18.52%	515	122	637	19.15%

Culture

Question: **Please provide additional information about specific actions the Department has taken or is taking to implement the "larger cultural improvement" that you reference in [the above response concerning vacancy rates].**

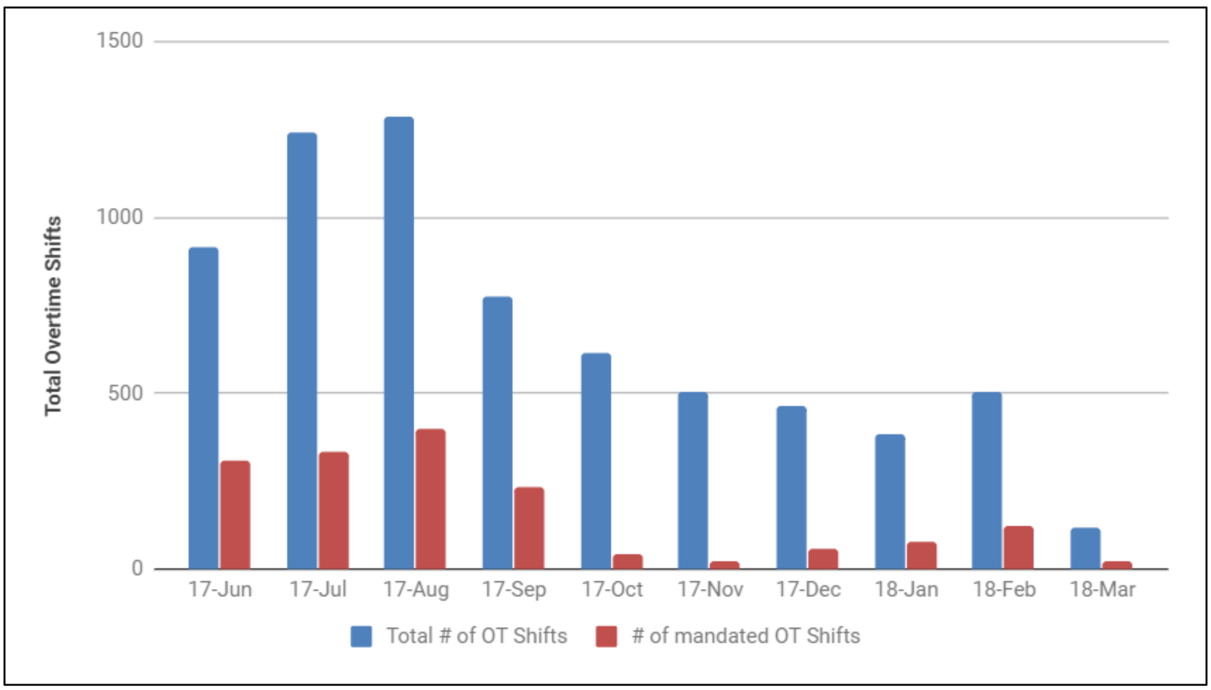
Department response: "During the past year, CMHIP had to address the results of survey findings regarding overall provision of treatment hours and direct care staffing. When immediate jeopardy was imposed by the Colorado Department of Public Health and Environment (CDPHE), CMHIP responded to meet direct care staffing ratios within 30 days. The plan involved use of mandatory overtime, development of alternate staffing resources (temporary part-time staff positions, staffing agencies, 1:1 "sitters," and pool staff), and limiting vacation time.

Mandatory overtime is a common practice in all hospital facilities to meet coverage requirements. The Colorado Nurse Practice Act (Title 12, Article 38 C.R.S. (2017)) states that a nurse cannot leave their assigned patients until proper relief arrives. Thus, mandatory overtime is often needed in short durations in hospitals. However, there were circumstances when CMHIP had to impose mandatory overtime for a whole additional shift. Thus for the immediate staffing to meet the requirement, mandatory overtime hours were high for about 2 months to address the immediate jeopardy finding. Immediate interventions were implemented to develop relief:

1. Requested staff to volunteer for overtime and gave them a $10.00 meal differential in the employee canteen in addition to time and a half pay.
2. Hired 20 new temporary (9 month duration) client care aids in the nursing pool.
3. Approved and began use of more contract/agency nursing relief staff.
4. Temporarily froze new vacation requests after June 4, 2017. CMHIP did not cancel vacations already approved.
5. In an effort to ensure employees were able to take vacation, CMHIP established a vacation roster where each employee selected their top three vacation requests. This improved vacation approval.
6. Between July and October 2017, the Department organized three hiring events to hire appropriate direct care staff the same day they applied.
7. Implemented referral bonuses and sign on bonuses.
8. Started a "sitter" program; trained non-nursing staff to cover 1:1 patient assignments as an adjunct to nursing coverage.
9. Assessed nursing schedules for efficiency and changed them to be all 12 hour or 8 hour shifts for maximum coverage with staffing numbers. Some units implemented 12 hour shifts in August and the total schedule changes were implemented in early September.
10. Completed an in-depth analysis of the staffing needs of each unit and established a staffing model that outlines the amount of staff required and the different types of positions required. This reduced the reliance on any one discipline.

The CDPHE lifted the immediate jeopardy in June 23, 2017, and lifted their monitoring when they found the Institute in full compliance in the first week of October, 2017. Later that month, the nursing management allowed staff to begin entering new vacation requests. The mandatory overtime (OT) use dropped significantly as shown in Table 1.

Table 1: CMHIP Total Number of OT Shifts versus Mandated OT Shifts



Staff recruitment and retention are key elements of staff morale. Incoming salaries of many direct care staff were below market pay for jobs in the private sector, and overall shortages of licensed health care professions both affect recruitment. General staff morale at the Institute, a direct consequence of culture and working conditions, affects retention. CDHS leadership staff determined that CMHIP leadership needed to address the causes of the staffing and morale problem resultant from the survey problems. The Office of Behavioral Health (OBH) hired a consulting firm to assist with the effort to make improvements in the CMHIP culture, Government Performance Solutions, Inc. (GPS).

In collaboration with GPS, OBH established a plan to identify the cultural needs of CMHIP. Through this process two goals were established: 1) establish a culture of teamwork, and 2) improve patient treatment programs and ensure proper treatment coverage.

Since September, GPS met with CMHIP leadership staff weekly and facilitated numerous meetings to discuss culture with all levels of the organization. They used the information gleaned to help rewrite CMHIP's new mission, vision, and values statements. Additionally, leadership identified two key areas that require transformation in order for CMHIP to improve the quality of care for patients and to improve the quality of work for staff.

CMHIP leadership is in the cultivate phase of this process, which means efforts are now focused on developing a culture of teamwork. The primary focus is on increasing the frequency and quality of middle and upper management, improving communication to staff, improving employee recognition efforts, implementing culture goals within performance management plans (PMPs), and utilizing dashboards on the units. The executive leadership team has scheduled two hour meetings every Thursday morning from January through June. The objectives of these meeting are to standardize definitions about treatment data being collected and to establish processes that ensure all disciplines are working together to deliver more meaningful and robust treatment to the patients. Each meeting focuses on a specific clinical program and includes all vital middle management staff for their input and education about treatment standards and best practice methods for programs. In addition, leadership is working towards leadership development programs and coaching for middle managers.

CMHIP has continued to cultivate a patient-oriented culture by strengthening its current clinical standards. Currently CMHIP is determining how many hours of treatment each department or discipline can provide. The first step of that process is to look at current staff workflows and reduce redundancies or unnecessary tasks. The second step is to increase the amount of treatment offered and to develop a strategy to ensure all treatment groups can always provide adequate coverage.

Leadership development is a key to the CMHIP strategy to increase staff retention and morale. The ongoing monitoring of the culture and leadership will occur through an assessment that measures five major categories: purpose, excellence, support, future, and leadership. All of these elements are correlated to teamwork, employee engagement, retention, and leadership. This assessment with be incorporated in the Agency for Healthcare Research and Quality (AHRQ), which will be disseminated on March 12, 2018. In addition, the leadership culture will be reinforced in already existing leadership meetings (weekly Nursing Executive Committee, monthly Lead Nurse meeting, and Unit meetings). Additionally, employee recognition is critical and leaders will review and recognize outstanding staff."

Impact of the pay increases on the average cost per patient

Question: **Please provide updated actual cost data for both institutes (average cost-per-patient-per-day) for FY 2016-17, and provide a projected average cost-per-patient-per-day should the General Assembly approve all of the Department's funding requests for FY 2018-19 (including salary adjustments for all direct care staff and the Governor's proposed common policies for salary increases, HLD, etc.).**

The Department provided actual cost data for FY 2016-17 for the Colorado Mental Health Institute at Ft. Logan (CMHIFL) only. The Department indicated that the final cost report for the Colorado Mental Health Institute at Pueblo (CMHIP) for FY 2016-17 has not yet been completed. As indicated in the following table, for CMHIFL, actual costs per-patient-per-day in FY 2016-17 ranged from $943 to $1,033, depending on the unit. Similar cost data for CMHIP for FY 2015-16 indicates that actual costs per-patient-per-day ranged from $497 for the Circle Program to $2,153 for the "E2 D wing" (the unit was created to house patients who were previously transferred to the Department of Corrections due to their violent behaviors).

FY 2016-17 (July 1, 2016 - June 30, 2017) CMHIP Cost/Capacity/Census by Division and Program		Billing	Cost Report	Average Daily Population (ADP) as of 6/30/2017				
Division	**Program**	**Cost Category**	**Average Cost/Day**	**Bed Capacity**	**Civil ADP**	**Forensic ADP**	**Total**	**Patient Occupancy**
Adult Civil	Team 1	Adult	$982.78	25	23		23	92%
Adult Civil	Team 2	Adult	$942.13	24	23		23	96%
Adult Civil	Team 3	Adult	$1,032.55	25	22		22	88%
Adult Civil	Team 5	Adult	$1,009.49	20	21	1	22	110%

The Department provided estimates of the average cost-per-patient-per-day for FY 2018-19 assuming the Department's request for direct care staff salary increases are approved (R1a and R1b). However, these estimates do not include centrally appropriated benefits such as health, life, and dental benefits and additional PERA contributions (AED and SAED), utilities, or indirect cost assessments. The Department provided rate estimates of $749 for CMHIFL and $692 for CMHIP. These rate estimates are both lower than the typical rates the Department uses to bill Medicare and private insurance companies, and do not appear to be useful for purposes of evaluating the impact of the requested salary increases.

Question: **If you have any new information about comparable costs for other psychiatric hospitals, please provide that as well. [You previously indicated that rates in the Denver metro area range from $1,000 to $1,300. I am wondering if you have any new data that may have been gathered as part of implementing the Purchased Beds initiative.]**

Department response: "The Department does not have any new information about comparable costs for other psychiatric hospitals. The Department is in the final stages of drafting the solicitation for the purchased beds initiative, and once the solicitation is closed, estimated by April 30, 2018, the Department will be in receipt of cost estimates (cost per day) from the bidders."

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Carolyn Kampman, JBC Staff (303-866-4959)
DATE	March 19, 2018
SUBJECT	Recommended Funding for JBC Bill Draft Concerning Competency Services

On March 6, 2018, the Committee approved a staff recommendation to authorize a bill to be drafted concerning court-ordered competency services. At that time, staff indicated that the bill draft would not be ready for review until after the Long Bill process. However, staff promised to provide information concerning the amount of funding the Committee should consider setting aside for this bill by March 19.

Based on initial fiscal estimates provided by the Department of Human Services and the State Court Administrator's Office, **staff recommends that the Committee consider setting aside $7.9 million General Fund for this bill as part of its FY 2018-19 budget package.** This funding would address systemic issues that are driving the continued increase in Court orders for competency services, and increase the utilization of lower cost, clinically appropriate, community-based behavioral health services. The components of this recommended amount are described below, followed by background information about the Settlement Agreement, funding that will be included in the FY 2018-19 Long Bill for competency services, and the contents of the draft bill.

- **An estimated $3.8 million to implement a recommendation from the Colorado Commission on Criminal and Juvenile Justice (CCJJ) to develop Post-arrest, Pre-file Mental Health Diversion Programs**. Similar to the existing Adult Pre-trial Diversion Program, the State Court Administrator's Office would administer funding for this Program. Funding would cover the cost of 1.0 FTE to oversee the program, and the remaining funding would cover costs of individual diversion programs (including collection of key performance and outcome data).

- **An estimated $2.4 million to establish behavioral health liaisons for each judicial district** to keep judges, district attorneys, and defense attorneys informed about community-based behavioral health services for defendants, including those who are ordered to have a competency evaluation or restoration treatment. These liaisons would help screen and identify cases appropriate for pre-file diversion.

- **An estimated $1.7 million to expand the Jail-based Behavioral Health Services Program** administered by the Department of Human Services. This program is currently supported by $5.3 million from the Correctional Treatment Cash Fund to assist jails in screening inmates for substance use disorders, providing treatment in jail, and promoting continuity of care upon release from jail. The bill draft will expand this program and provide funding for jails to screen for mental health disorders and suicide risk, provide mental health treatment and medication, and promote continuity of care upon release. Funding would cover the cost of 3.0 FTE to administer the program (no administrative funding has been provided to date) and increase funding for participating jails.

Compliance with Settlement Agreement with Disability Law Colorado

In 2012, the Department of Human Services entered into a Settlement Agreement related to a legal challenge concerning the length of time pretrial detainees wait in jail to receive competency evaluations and restoration treatment. The Agreement requires the Department to admit pretrial detainees to the Colorado Mental Health Institute at Pueblo (CMHIP) for competency evaluations or for restorative treatment no later than 28 days after the individual is ready for admission, and to maintain a monthly average of 24 days or less for admission. On June 22, 2017, the Department invoked the "Departmental Special Circumstances" provision of the Agreement due to the number of court-ordered referrals exceeding the Department's bed capacity. As of January 13, 2018, 122 individuals had been waiting longer than 28 days for competency evaluation or restoration.

Funding Approved for FY 2018-19 for Competency Services

The Committee has approved requested appropriations totaling $18.8 million General Fund to be included in the FY 2018-19 Long Bill to address the immediate crisis related to complying with Settlement Agreement time frames related to competency services, including:

- $13.5 million for a 114-bed jail-based competency restoration (RISE) program;
- $3.2 million to contract for 10 private psychiatric beds for competency restoration;
- $1.1 million to support additional psychologists and administrative support staff to conduct competency evaluations; and
- $1.0 million General Fund for community-based competency restoration services.

The bed capacity outside of CMHIP is needed in the near-term to shorten the wait time for pretrial detainees. In addition, if the Department's projections are correct, an additional 446 beds will be needed over the next 10 years over and above what the Department has requested for FY 2018-19. Based on the lowest current per-bed-per-day rate ($313.69 for the RISE Program for FY 2018-19), it would require at least $51 million annually to operate another 446 beds. Additional funding would be needed for capital construction and start-up expenses to create this capacity. [The FY 2017-18 Long Bill includes $5.4 million in capital construction funding to add 24 beds in the CMHIP high security forensic facility, for a cost of approximately $225,000 per bed. These beds are anticipated to become available in FY 2020-21.]

It is clear that the State cannot "bed" its way out of this problem. Two years ago the Committee sponsored legislation (H.B. 16-1410) which limited court discretion to order inpatient competency *evaluations* and to facilitate the transportation of patients to make efficient use of available beds. This legislation has proven successful in reducing the number of court orders for inpatient competency evaluations.

Recommended 2018 Bill Draft

The recommended bill draft will address the increasing number of Court orders for competency evaluations and restoration services. Generally, this bill draft will be designed to:

- divert individuals with mental health disorders from the criminal justice system into treatment;
- improve communication and collaboration between the Courts, district attorneys, defense attorneys, the Department of Human Services, the Department of Health Care Policy and Financing, local law enforcement agencies, and community-based behavioral health providers concerning the needs and available treatment options for individuals with behavioral health disorders;
- provide timely competency-related services based on clinical necessity;
- integrate competency restoration services with existing community-based behavioral health services and supports to address the underlying causes of incompetency;
- improve the availability of mental health services in jails to help identify individuals who could be diverted into treatment and reduce the likelihood of individuals decompensating while they are held in jail;
- free up capacity for CMHIP to provide jails and other agencies with access to inpatient psychiatric treatment for individuals based on clinical necessity, regardless of whether there is a court order concerning competency;
- reduce the maximum term of confinement for purposes of receiving competency restoration treatment to less than the maximum term of confinement that could be imposed if the defendant were to be found guilty of the charges (thereby addressing a critical constitutional issue and reducing the demand for restoration services);
- establish procedures for transitioning individuals to a civil commitment when warranted; and
- improve procedures related to individuals who are found permanently incompetent to proceed.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Vance Roper, JBC Staff (303-866-3147)
DATE	March 20, 2018
SUBJECT	Early Childhood Councils

During Staff comebacks, the Joint Budget Committee requested research into possible statute changes and funding for Early Childhood Councils. After consultation with the stakeholders on this topic, both Staff and stakeholders agree that this issue should be studied over the interim with any recommendation being presented during the budget briefing process for FY 2019-20. As such, **Staff recommends that the potential legislation and the associated set-aside for Early Childhood Councils be removed.**

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Members of the JBC
FROM	Steve Allen, JBC Staff (303-866-4961)
DATE	March 16, 2018
SUBJECT	Staff comeback for the Judicial Branch

Summary of Judicial tabled items

TABLED JUDICIAL BRANCH RECOMMENDATIONS AND REQUESTS						
RECOMMENDATION AND REQUEST	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
JUD R1 System Maintenance Study (The request would increase salaries for 54 Judicial Department job classes by more than the common-policy salary-survey increase. The recommendation would restrict almost all the additional increases to two Judicial job classes with high turnover rates.)						
Staff recommendation	$2,858,691	$2,782,916	$75,775	$0	$0	0.0
Agency request	4,138,738	3,974,756	163,982	0	0	0.0
Request Above/(Below) Recommendation	1,280,047	1,191,840	88,207	0	0	0.0
JUD BA10.2 IT staff and pay adjustments (The request and recommendation would fill a funding hole that has developed as the Judicial Department has matched or partially matched offers that some of its IT employees have received from potential employers. This has reduced the amount of the IT personal services appropriations that are available to hire IT staff.)						
Staff recommendation	80,775	80,775	0	0	0	(2.0)
Agency request	80,775	80,775	0	0	0	(2.0)
Request Above/(Below) Recommendation	0	0	0	0	0	0.0

Detail on Judicial tabled items

➔ JUD R1 SYSTEM MAINTENANCE STUDY

REQUEST. The Judicial Department requests an increase of $4,138,738 total funds, including $3,974,756 General Fund, to pay salary survey adjustments that change the salary ranges for 54 job classes in the Judicial Department and include approximately one third of the Department's employees. The increase for the average affected worker equals 5.4%. Two thirds of the Department's employees were in positions judged not to require adjustment. The salary survey was performed by Segal Waters, a third-party compensation consulting company with expertise regarding judicial salaries. For comparison, Segal Waters looked at similar positions from the following:

1. Mercer 2017 Information Technology Survey
2. State of Colorado Executive Branch
3. City and County of Denver Job Specifications and Pay Ranges
4. Arkansas Judiciary
5. Maryland Judiciary
6. Minnesota Judiciary
7. Nebraska Judiciary
8. Nevada Judiciary

9. North Carolina Judiciary
10. Tennessee Judiciary
11. Washington Judiciary

Other sources of data that were used for the survey include:

1. Mountain States Employers Council Benchmark Compensation 2017
2. Mountain States Employers Council Information Technology Compensation 2017
3. MarketPay Systems

The survey adjusts for the relative cost of living in the comparison areas and notes that Colorado's overall cost of living is 11% greater than the national average. The Department compares its salaries to the median salary ranges of each position; if the deviation is greater than 3% from the market median, an adjustment to match the market is requested. If the Department determines the median for a given job class needs to be increased, it requests enough to give everyone in that job class the same percentage raise.

RECOMMENDATION. Staff recommends an increase of $2,858,691 total funds, including $2,782,916 General Fund, to pay salary survey adjustments that change the salary ranges for 54 job classes in the Judicial Department. For 52 job classes, the adjustments work as they do in Colorado's Executive Branch: if an employee is below the bottom of the range after the range is adjusted upward by a salary survey, that employee receives just enough extra salary to move him or her up to the bottom of the range. If an employee is within the range after the range shifts, there is no raise. Staff recommends exceptions for two job classes for which the Judicial Department is experiencing high turnover. For individuals in these job classes, staff recommends enough funding to move everyone up within the salary range by the same percentage. The two job classes are *Court Judicial Assistant (CJA)* and *Support Services*. Support Services workers had the highest turnover rate in the Judicial Department in FY 2016-17 at 16.7%. Court Judicial Assistants had the second highest turnover rate at 16.6 percent. By comparison, the overall turnover rate for the Department is 10.7 percent.

➔ JUD BA10.2 IT STAFF AND PAY ADJUSTMENTS

REQUEST: The request seeks to address a problem the Judicial Department has encountered as it tries to retain IT employees. In the past few years, the Department has matched or partially matched some of the offers its IT employees have received from other employers in an effort to keep them. The ongoing expenditure required when match offers are accepted has forced the Department to hold other IT positions vacant for extended periods. With this request the Department seeks $80,775 General Fund to fill the funding hole that has been created by the last 10 "successful" matching offers the Department extended to its IT employees. The Department offers in return 2.0 vacant FTE positions that it has little hope of filling.

RECOMMENDATION: Staff recommends that the Committee approve this request. IT staff are important to keep, but hard to hold onto. Pay matching, which is allowed under state personnel rules, is a reasonable alternative under the circumstances.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	JBC Members
FROM	Craig Harper, JBC Staff (303-866-3481)
DATE	March 14, 2018
SUBJECT	Department of Law: Attorney Salary Survey and Merit Pay

The Committee conducted figure setting for the Department of Law on February 6, 2018. However, because the Committee had not set common policies for classified employee compensation (specifically salary survey and merit pay), the Committee has not taken action on the Department's request for salary increases associated with the Department's at-will staff (attorneys).

Background Information – Salaries for Classified and Exempt Employees: The Department of Law employs both classified and non-classified or "exempt" employees. Classified employees are governed by state personnel rules and procedures; exempt employees are not. The Department employs about 283 attorney FTE, who collectively make up about 60 percent of the Department's staff. These attorneys are all exempt employees, and the remaining 40 percent of the Department's staff are classified employees.

Salary survey and merit pay for classified employees, when provided, are set by common policy. Thus, staff will calculate any appropriations for salary survey and merit pay increases for classified employees in the same manner as all other classified employees.

The Department of Personnel's "Annual Compensation Survey Report" does not include compensation data related to attorneys. In order to evaluate the compensation for its attorneys, the Department has historically contracted with an independent compensation research and consulting firm (recently the Fox Lawson Group) on an annual basis to assess market compensation practices for attorneys in comparable positions in Colorado public sector attorney organizations. The Department contracted for a complete survey (using data from a variety of public sector attorney offices in Colorado) in 2015 and then a supplemental (shorter and simpler) survey in 2016.

For 2017, the Department's vendor indicated that they were not seeing a lot of change in the market from the previous two years. Based on the vendor's input, the Department concluded that a formal survey every year may not be cost effective, and the Department has instead decided to contract for the formal survey every three or four years. Thus, rather than a formal survey specifically for the Department of Law, the Department based the FY 2018-19 attorney salary survey request on survey data from the Mountain State's Employers Council and World at Work.

The Department reports that its salaries remain competitive with the market for both pay ranges and average base salaries. Based on the Department's research for 2017, the request includes a 3.2 percent salary increase for attorneys, along with 2.0 percent salary range increases. For comparison purposes, the Office of the State Public Defender is requesting a 3.0 percent increase for attorneys, equivalent to the common policy request for classified employees and below the Department of Law's request for attorneys. Consistent with the Governor's common policy request for classified employees, the Department is not requesting funding for merit pay for attorneys or classified employees for FY 2018-19.

FY 2018-19 Request: Based on the Department's study, the Department is requesting a 3.2 percent salary survey increase for attorneys to maintain parity with the primary market, 0.2 percent higher than the common policy request of 3.0 percent for classified employees. For comparison purposes, the Office of the State Public Defender is requesting a 3.0 percent increase for attorneys, equivalent to the common policy request for classified employees and below the Department of Law's request for attorneys. Consistent with the Governor's common policy request for classified employees, the Department is not requesting funding for merit pay for attorneys or classified employees for FY 2018-19.

Staff Recommendation: In order to remain competitive with the market, staff recommends approving the Department's request for a 3.2 percent increase for the Department's attorneys. During the briefing process, staff had anticipated recommending approval of a salary survey amount consistent with the treatment of classified employees. However, given ongoing uncertainty about salary survey amounts for classified employees, staff is now recommending approval of the Department's request. Staff notes that not maintaining competitive salaries has historically resulted in increased turnover for the Department and forced significant salary survey appropriations to "catch up" to the market (such as $4.1 million in FY 2013-14).

For comparison purposes, as shown in the following table, applying the Governor's common policy for classified staff to the Department's attorneys would reduce the Department's salary survey request by $72,023 total funds (including $17,763 General Fund) in FY 2018-19.

FY 2018-19 ATTORNEY SALARY SURVEY OPTIONS					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Governor 3.0 Percent	$999,513	$256,874	$49,064	$681,984	$11,591
Department/Staff Rec.	1,071,536	274,637	52,558	731,902	12,439
Difference	$72,023	$17,763	$3,494	$49,918	$848

Staff understands that the Committee has approved the Office of the State Public Defender's salary survey request, which aligns with the Governor's common policy for classified employees (requested at 3.0 percent) and would fluctuate with the Committee's common policy for classified employees. As a result, the staff recommendation for the Department of Law diverges from the Committee-approved request for the State Public Defender. The Committee may wish to consider ensuring parity in salary survey appropriations between the two entities (as staff has previously recommended).

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	The Joint Budget Committee
FROM	John Ziegler, JBC Staff (303-866-4956)
DATE	March 20, 2018
SUBJECT	Place Holder for the Legislative Appropriation Bill

H.B. 18-1239 (FY 2018-19 Legislative Appropriation Bill) provides the majority of the appropriation for the Legislative department. Each year, the Legislative Appropriation Bill is sponsored by leadership and carried separately from the Long Bill. Therefore, the Joint Budget Committee must include a place holder for the Legislative Appropriation Bill each year when balancing the budget.

As a result, staff recommends the JBC include a placeholder for the Legislative Appropriation Bill. The Legislative Appropriation Bill currently consists of $44,781,093 General Fund as passed by the House Appropriations Committee. Staff also requests permission to adjust the balancing based on any further actions that occur during the legislative process of H.B. 18-1239.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee Members
FROM	Carolyn Kampman, JBC Staff (303-866-4959)
DATE	March 19, 2018
SUBJECT	UPDATE: JBC Actions to Date on Appropriations from the Marijuana Tax Cash Fund for FY 2017-18 and FY 2018-19

This memorandum provides updated information concerning the Marijuana Tax Cash Fund (MTCF) to assist the Committee in making final decisions concerning the FY 2018-19 budget proposal. This memorandum reflects Committee actions to date on FY 2018-19 requests, as well as updated projections of funds available for appropriation for FY 2018-19 based on the Legislative Council Staff March 2018 revenue forecast. In addition, please note that the Committee has not yet taken action on employee salary changes or provider rates. In the absence of a Committee policy, this memorandum reflects the *requested* amounts for these items.

Table 1 outlines the approved changes in appropriations from the MTCF, and provides an estimate of the overall change in MTCF appropriations. Staff estimates that overall appropriations and transfers for FY 2018-19 will be $4.9 million higher than for FY 2017-18. However, this incremental change is preliminary, and could be higher or lower depending on Committee action on state employee salary increases and community provider rates.

TABLE 1
APPROVED CHANGES IN APPROPRIATIONS FROM THE MARIJUANA TAX CASH FUND: FY 2018-19

DEPARTMENT	PROGRAM	ANNUAL CHANGE
Higher Education	Strategies for Educator Preparation Programs [JBC bill]	$2,000,000
Public Safety	Grant program to offset revenue reductions for local law enforcement agencies resulting from H.B. 17-1313 [Set aside for legislation]	1,500,000
Human Services	Restoration of full-year funding for Circle Program (R5b, BA1b)	1,162,882
Public Safety	Black market marijuana interdiction (R7)	1,093,470
Governor	Transfer to Pay for Success Contracts Fund	989,470
Human Services	Medication consistency and health information exchange (R13; S.B. 17-019)	590,936
Human Services	Expansion of evidence based Incredible Years program (R17)	481,236
Law	Shift $286,766 from developing in-house legal expertise to local law enforcement training through the Peace Officers Standards and Training (POST) Board	0
Labor & Employment	Colorado Veterans' Service-to-career Pilot Program (annualize funding for H.B. 16-1267)	(165,296)
Governor	Office of Information Technology, Applications Administration	(470,875)
Public Health & Environment	Marijuana lab certification	(596,887)
Public Safety	Reserve Peace Officer Academy Grant Program (annualize S.B. 17-096)	(798,651)
Higher Education	Center for Research Into Substance Use Disorder Prevention, Treatment, and Recovery Support Strategies (annualize S.B. 17-193)	(1,000,000)
Local Affairs	Eliminate funding for Local Government Retail Marijuana Impact Grant Program (R2)	(1,120,636)
	Other changes	1,186,463
Total		**$4,852,112**

Table 2 details the total funds available in the MTCF for appropriation or transfer in FY 2018-19. This table reflects the Legislative Council Staff March 2018 revenue forecast, mid-year appropriation changes, and actions to date on requests from the MTCF for FY 2018-19. A total of $133.8 million is available for transfers and for appropriations to agencies other than the Department of Revenue for FY 2018-19. Appropriations to be included in the FY 2018-19 Long Bill are estimated to total $116.7 million. The Committee has also voted to set aside a total of $4.5 million for two bills to be included in the Committee's budget package and for a bill to be sponsored by other legislators. **If these estimates hold true** (i.e., if the Committee were to approve the proposed increases in state employee salaries and community provider rates)**, $12.6 million would remain available for other purposes (e.g., pending legislation).**

TABLE 2
FUNDS AVAILABLE FOR APPROPRIATION FROM THE MARIJUANA TAX CASH FUND FOR FY 2018-19

DESCRIPTION	AMOUNT
Beginning fund balance as of July 1, 2017	$140,034,705
LESS: FY 2017-18 Appropriations for various departments from prior year revenues	(114,750,200)
Transfers (to)/from the General Fund booked in FY 2017-18	(37,500)
PLUS: Total projected revenue to be collected in FY 2017-18 per Legislative Council Staff (March 2018 forecast)	119,484,246
State share of special sales tax on retail marijuana (71.85 percent of total State share)	*101,429,331*
Regular sales tax on retail marijuana	*5,729,286*
Regular sales tax on medical marijuana	*12,195,120*
Interest and accounting adjustments	*130,509*
LESS: FY 2017-18 Appropriations to the Department of Revenue	(1,591,805)
EQUALS: Total funds available in the Fund for FY 2018-19	143,139,446
LESS: Statutorily required reserve (6.5 percent)	(9,304,064)
EQUALS: Funds Available for Appropriation or Transfer for FY 2018-19	**$133,835,382**
LESS: FY 2018-19 Appropriations to the Department of Revenue	(1,532,087)
LESS: FY 2018-19 Appropriations to various other departments	(115,210,060)
LESS: Appropriation in JBC bill concerning educator preparation programs	(2,000,000)
LESS: Set aside for legislation concerning impact of civil forfeiture reforms	(1,500,000)
LESS: Transfer in JBC bill concerning Pay for Success program	(989,470)
EQUALS: Funds Remaining Available Above Statutorily Required Reserve	**$12,603,765**

Staff notes that the total amount estimated to be available for FY 2018-19 for expenditures and transfers ($133.8 million) exceeds projected revenues to the MTCF in FY 2017-18 ($119.5 million) by $14.3 million (12.0 percent). Based on the most recent Legislative Council Staff revenue projections, MTCF revenues will increase to $129.6 million in FY 2018-19. Thus, annual expenditures of approximately $129 million may be sustainable. However, staff cautions the Committee that the costs of programs that support state employees or community providers will continue to increase over time. These inflationary increases may outpace annual increases in revenues to the MTCF.

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Eric Kurtz, JBC Staff (303-866-4952)
DATE	March 19, 2018
SUBJECT	Comebacks - Community Provider Rates

The JBC tabled decisions on a community provider rate common policy that would adjust rates across-the-board and on several targeted rate adjustments.

ACROSS-THE-BOARD COMMON POLICY

Using the JBC's figure setting actions to date, the JBC staff has a new estimate of the base eligible for a community provider rate increase. The revised estimate is $5,402.0 million total funds, including $2,183.3 million General Fund. This is lower than previous estimates provided to the JBC, due to lower projections of the Medicaid and corrections populations. Using the revised estimate, each 1.0 percent change to the eligible base changes the General Fund by $21.8 million.

The eligible base includes payments to community providers for things in addition to salaries, such as health, life, and dental insurance, employee operating expenses, capitol and leased space expenses, utilities, and program costs. Last year, the JBC discussed an assumption that 60 percent of the eligible base is related to salaries. There were other balancing decisions that modified the final community provider rate adjustment, but this 60 percent assumption informed the JBC's decisions. The JBC cannot direct that a provider rate increase only be used for salaries, but the JBC could target funding based on the assumed portion of provider rates used for salaries. If the JBC wants to provide an increase calculated on only the portion of the eligible base devoted to salaries, and this portion is assumed to be 60.0 percent, then each 1.0 percent change to the salary base changes the General Fund $13.1 million.

Across-the Board Common Policy						
		TOTAL FUNDS	GENERAL FUND	CASH FUNDS	REAPPROPRIATED FUNDS	FEDERAL FUNDS
Option 1						
Eligible base		$5,401,966,277	$2,183,306,490	$301,739,325	$55,364,640	$2,861,555,822
Increase	1.0%	$54,019,662	$21,833,065	$3,017,393	$553,646	$28,615,558
Option 2						
Salary base (assumed portion of base devoted to salaries)	60.0%	$3,241,179,766	$1,309,983,894	$181,043,595	$33,218,784	$1,716,933,493
Increase	1.0%	$32,411,798	$13,099,839	$1,810,436	$332,188	$17,169,335

The JBC staff recommendation was for a 1.0 percent increase on the eligible base, which would cost $21.8 million General Fund, using the revised estimate of the eligible base. The Governor requested an increase of 0.77 percent for the Department of Health Care Policy and Financing and a 1.0 percent increase for all other line items, which would cost $18.4 million General Fund, using the revised estimate of the eligible base.

A table at the end of this memo provides a summary of the dollar changes by department for various across-the-board common policy scenarios.

TARGETED RATE ADJUSTMENTS

For targeted rate adjustments, the Governor requested several changes that would result in a net savings of $6.6 million total funds, including a decrease of $1.4 million General Fund, and the JBC has publicly discussed other changes that would increase expenditures by $52.5 million total funds, including $31.6 million General Fund. The table below summarizes the Governor's request and the publicly discussed targeted rate adjustments. This is not necessarily a comprehensive list of all provider rate changes that JBC members are considering. It is only the potential provider rate changes that have been discussed publicly.

Targeted Rate Adjustments					
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FEDERAL FUNDS	Notes
Requested by Governor					
Anesthesia services	($9,728,911)	($2,950,535)	($274,539)	($6,503,837)	
Alternative care facilities	15,684,482	7,842,241	0	7,842,241	
Physician services & surgery	0	0	0	0	Net zero budget impact
Nursing home per diem	(12,546,993)	(6,273,497)	0	(6,273,496)	Requires bill
Subtotal- Requested by Governor	*(6,591,422)*	*(1,381,791)*	*(274,539)*	*(4,935,092)*	
Publicly Discussed					
Senior Dental Program	1,000,000	1,000,000	0	0	Rep. Hamner
Durable medical equipment	8,945,345	8,945,345	0	0	Rep. Young - Backfills FY17-18 GF share; bill
Physician-administered drugs	754,000	754,000	0	0	Sen. Moreno - Backfills FY17-18 oncology; bill
Increasing access to IDD	41,762,745	20,881,373	0	20,881,372	Rep. Young - bill
IDD Direct service professionals	31,771,254	15,885,627	0	15,885,627	Increase IDD direct care professional rates 6.5%
IDD Enrollment	9,991,491	4,995,746	0	4,995,745	Increase IDD enrollments by 300
Subtotal - Publicly Discussed	*52,462,090*	*31,580,718*	*0*	*20,881,372*	
TOTAL	**$45,870,668**	**$30,198,927**	**($274,539)**	**$15,946,280**	

The amount for the durable medical equipment adjustment would be sufficient to backfill only the General Fund share of estimated lost revenue in FY 2017-18. It would take a bill to implement. The amount for the physician-administered drugs adjustment would be sufficient to backfill the entire estimated lost revenue for four oncology codes in FY 2017-18. It would take a bill to implement. The amount for increasing access to IDD includes potentially severable portions for a rate increase and for expanding enrollment that were tied together in one concept for a bill.

The JBC staff recommendation[1] is for the first three items in the table to: (1) reduce anesthesia services to 100 percent of the Medicare benchmark; (2) increase alternative care facility rates by 25.0 percent; and (3) make net budget neutral adjustments to physician services and surgery rates based on place of service and for services that are below 80 percent or above 100 percent of the benchmark. All three of these requested changes were recommended by the Medicaid Provider Rate Review Advisory Committee (MPRRAC). The JBC staff does not recommend the requested legislation to reduce nursing home per diem rates. The other items on the list were raised by JBC members and the JBC staff did not make recommendations on these items.

[1] For more on the original JBC Staff recommendation, see page 19 of the figure setting document located here: http://leg.colorado.gov/sites/default/files/fy2018-19_hcpfig1.pdf

During figure setting for the Department of Health Care Policy and Financing, JBC members asked questions about some of the targeted rate increases. Responses from the Department were provided to the JBC members previously and are repeated below.

SENIOR DENTAL PROGRAM

1 [Rep. Hamner] How far would $1.0 million for the Senior Dental Program go? If the GA provides a $1.0 million increase, how would the Department distribute it?

Currently there are no Colorado Dental Health Care Program for Low-Income Seniors (Senior Dental Program) grantees in the following 12 counties: Archuleta, Baca, Cheyenne, Dolores, Huerfano, Kiowa, La Plata, Las Animas, Montezuma, Ouray, Prowers, and San Juan. If additional funds were appropriated to the program, the Department would solicit grant applications for these areas where there are no current grantees. Following that recruitment effort, the Department would use any remaining additional funds to increase grant awards to current grantees to reduce waitlists.

The average expenditure in FY 2016-17 was $1,083 per senior. The Department estimates that an additional $1.0 million would provide services to about 920 additional seniors.

2 [Rep. Hamner and Rep. Young] The JBC staff suggested the Department might be able to draw federal matching funds for the Senior Dental Program with a federal waiver. How would it work? Is CMS likely to approve such a waiver? What is required to explore a waiver?

The Department presumes that JBC staff is referring to a Section 1115 Demonstration Waiver and understands the intent of the waiver would be to receive federal matching funds for services provided to a population not eligible for federal Medicaid matching funds. The Department expects additional resources to be necessary to explore such a waiver; however, additional time is required for Department assessment and determination of the resource need.

The Department does not know if CMS would approve such a waiver, and CMS reviews each waiver proposal on a case-by-case basis. CMS has stated its preference for waiver proposals that:

- *Improve access to high-quality, person-centered services that produce positive health outcomes for individuals;*
- *Promote efficiencies that ensure Medicaid's sustainability for beneficiaries over the long term;*
- *Support coordinated strategies to address certain health determinants that promote upward mobility, greater independence, and improved quality of life among individuals;*
- *Strengthen beneficiary engagement in their personal healthcare plan, including incentive structures that promote responsible decision-making;*
- *Enhance alignment between Medicaid policies and commercial health insurance products to facilitate smoother beneficiary transition; and*
- *Advance innovative delivery system and payment models to strengthen provider network capacity and drive greater value for Medicaid.*

The 1115 Waiver application process is extensive, and the proposal must include several components, including a comprehensive program description, enrollment and expenditure estimates, written documentation of compliance with public notice requirements, and the demonstration's research hypotheses that are related to the proposed changes, goals, and objectives, a plan for testing the hypotheses in the context of an evaluation, and, if a quantitative evaluation design is feasible, the identification of appropriate evaluation indicators.

Section 1115 Waiver Demonstrations must also be "budget neutral" to the federal government, which means that, during the course of the project, federal Medicaid expenditures will not be more than federal spending without the demonstration. A federal budget neutrality demonstration would need to be developed and provided with the waiver proposal.

3 [Rep. Rankin] How is eligibility for the Senior Dental Program determined? Who does the determination and what documentation is required?

The Senior Dental Program provides grants to local Area Agencies on Aging (AAAs), public health agencies, Community Health Centers, private dental practices, and other community-based organizations. These grantees determine eligibility for the program, including verifying age, income, lawful presence, and verifying that the senior is not eligible for Medicaid or the Old Age Pension Health and Medical Care Program and does not have private dental insurance.

Grantees must maintain documentation of eligibility determination, including income determination, and Department staff performs periodic reviews of grantees' documentation. To simplify the administration of the program, grantees may use existing income determination tools or allow seniors to self-declare income. For example, AAAs, public health agencies, and Community Health Centers have existing processes for determining income. Rather than requiring these grantees to follow new requirements to determine income, they can use those existing processes. In the grant application process, grantees were required to explain their income determination process and the documentation required. For those who allow seniors to self-declare income, an affidavit or signed declaration is generally used.

DURABLE MEDICAL EQUIPMENT AND ONCOLOGY RATES

4 [Sen. Lambert] Please provide a timeline for both the durable medical equipment rates and oncology drug rates explaining when the Department received guidance from the federal Centers for Medicare and Medicaid Services (CMS), when notice was provided to stakeholders, and when the rate changes were implemented. Could the problems for providers with the timing of these rate changes been avoided or mitigated through better communication between the Department and CMS?

Durable Medical Equipment

The 21st Century Cures Act required all Medicaid agencies to reduce their payment rates for certain DME codes to what Medicare pays effective January 1, 2018. Guidance from CMS (first official guidance on the issue) on how to comply with the statute was received the last week of December 2017. The Department submitted public notice and a request to CMS to align the DME reimbursement methodology with the statutory requirements the last week of December 2017 with an effective date of January 1, 2018. Medicare rates for CY 2018 were available from CMS in mid-December 2017, and the final list of codes that the policy applies to was provided by CMS the last week of February 2018. There have been multiple stakeholder meetings in and since January with both the Department and providers working together to better understand how to navigate this complex issue. At the request of stakeholders, the Medicare rates have not been implemented in the claims processing system.

Better communication with CMS would not likely have improved the situation. Nation-wide, states were asking for this information and it simply wasn't available. In fact, new information is still coming in regarding *specific interpretation of the DME policy. The fact that the Department just received the final code list in February – two months after the effective date of the policy, is indicative of the availability of the information.*

Oncology Rates

Last year the Joint Budget Committee approved the Department's budget request R7 which changed the payment methodology for Office Administered Drugs (OAD) to Average Sales Price plus 2.5%. The budget request assumed an effective date of January 1, 2018 but after consulting with the Centers for Medicare and Medicaid Services (CMS), the Department was required to make the change effective July 1, 2017 in order to be compliant with the Covered Outpatient Drug Final Rule (effective April 2017). The Department publicly noticed the change through the State Plan Amendment process and in the July 2017 provider bulletin. The change in timing for implementation benefited providers like Mental Health Centers who were underpaid for long-acting antipsychotics but will negatively impact providers that were potentially overpaid for various OADs. The provider bulletin stated that the Department would be moving to ASP +2.5% and that it would be implemented retroactively back to 7/1/18 once approved by CMS. ASP is a publicly available statistic for providers to determine their reimbursement per the stated methodology, but the Department is also now posting the Medicaid rates (ASP +2.5%) on a quarterly basis.

5 [Sen. Lambert] How is the Department legally able to claw back money or decrease provider rates retroactively? Is there a precedent for retroactively decreasing rates? What is the risk of a legal challenge?

The Department believes that satisfying the federal public notice requirements associated with a change in payment policy is the minimum legal threshold that allows for retroactive implementation of rate changes. The Department completed this requirement for both policy changes, prior to the effective date of the policy changes. It is typical for implementation and adjustment of claims to happen retroactively due to federal approval being received after the effective date of a policy. It is less common for decreases because rate cuts are not common. Medicare, the largest payer in the nation, does periodically retroactively adjust their fee schedule.

APPENDIX: Across-the-Board Common Policy Scenarios

Program	Estimated Base Eligible for Common Policy Total Funds	Estimated Base Eligible for Common Policy General Fund	-0.5%	Governor Request 0.77% HCPF 1.0%	Staff Recom. 1.0%	Employment Cost Index (National) 2.0%	CPI Health (National) 2.4%	State Employee Salary Request 3.0%	CPI Denver/ Boulder/Greeley (CY 2017) 3.4%
Health Care Policy and Financing									
Medical Service Premiums	$3,796,376,333	$1,227,161,986	($6,135,810)	$9,449,147	$12,271,620	$24,543,240	$29,451,888	$36,814,860	$41,723,508
Office of Community Living	473,882,528	245,665,608	(1,228,328)	1,891,625	2,456,656	4,913,312	5,895,975	7,369,968	8,352,631
Human Services	24,624,091	12,312,046	(61,560)	123,120	123,120	246,241	295,489	369,361	418,610
Behavioral Health	8,586,902	2,073,118	(10,366)	15,963	20,731	41,462	49,755	62,194	70,486
Other	720,967	360,484	(1,802)	3,605	3,605	7,210	8,652	10,815	12,256
Subtotal - HCPF	$4,304,190,821	$1,487,573,242	($7,437,866)	$11,483,460	$14,875,732	$29,751,465	$35,701,759	$44,627,198	$50,577,491
Human Services									
Child Welfare and Youth Corrections	476,963,844	293,193,763	(1,465,969)	2,931,938	2,931,938	5,863,875	7,036,650	8,795,813	9,968,588
Child Care	155,539,541	55,609,033	(278,045)	556,090	556,090	1,112,181	1,334,617	1,668,271	1,890,707
Behavioral Health	141,568,219	109,857,087	(549,285)	1,098,571	1,098,571	2,197,142	2,636,570	3,295,713	3,735,141
County Administration	75,139,600	25,012,700	(125,064)	250,127	250,127	500,254	600,305	750,381	850,432
Other	21,374,089	13,251,675	(66,258)	132,517	132,517	265,034	318,040	397,550	450,557
Subtotal - Human Services	$870,585,293	$496,924,258	($2,484,621)	$4,969,243	$4,969,243	$9,938,486	$11,926,182	$14,907,728	$16,895,425
Corrections									
In-state private prisons	59,041,786	59,041,786	(295,209)	590,418	590,418	1,180,836	1,417,003	1,771,254	2,007,421
Community Corrections Programs	29,217,523	26,454,642	(132,273)	264,546	264,546	529,093	634,911	793,639	899,458
Payments to local jails	13,280,430	13,280,430	(66,402)	132,804	132,804	265,609	318,730	398,413	451,535
Pre-release parole revocation facilities	10,659,198	10,659,198	(53,296)	106,592	106,592	213,184	255,821	319,776	362,413
Subtotal - Corrections	$112,198,937	$109,436,056	($547,180)	$1,094,360	$1,094,360	$2,188,722	$2,626,465	$3,283,082	$3,720,827
Public Safety									
Community Corrections Programs	$64,681,616	$60,527,761	($302,639)	$605,278	$605,278	$1,210,555	$1,452,666	$1,815,833	$2,057,944
Judicial									
Offender Treatment and Services	$33,969,608	$15,413,076	($77,065)	$154,131	$154,131	$308,262	$369,914	$462,392	$524,045
Public Health and Environment									
Local Public Health Agencies	$9,278,582	$6,765,253	($33,826)	$67,653	$67,653	$135,305	$162,366	$202,958	$230,019
Labor and Employment									
Independent Living Services	$7,061,420	$6,666,844	($33,334)	$66,668	$66,668	$133,337	$160,004	$200,005	$226,673
TOTAL	**$5,401,966,277**	**$2,183,306,490**	**($10,916,531)**	**$18,440,793**	**$21,833,065**	**$43,666,132**	**$52,399,356**	**$65,499,196**	**$74,232,424**
Assume 60% of base is salaries	*3,241,179,766*	*1,309,983,894*	*(6,549,919)*	*11,064,476*	*13,099,839*	*26,199,679*	*31,439,614*	*39,299,518*	*44,539,454*
Percent change from eligible base			*-0.3%*	*Mixed*	*0.6%*	*1.2%*	*1.4%*	*1.8%*	*2.0%*

MEMORANDUM

JOINT BUDGET COMMITTEE

TO	Joint Budget Committee
FROM	Alfredo Kemm, JBC Staff (303.866.4549)
DATE	March 15, 2018
SUBJECT	Dept. of Revenue figure setting comeback – tabled item – Footnotes and RFIs

At Department of Revenue figure setting on February 20th, the Committee tabled a decision on footnotes and requests for information. Staff's recommendations are unchanged and follow.

LONG BILL FOOTNOTES

Staff recommends **CONTINUING** the following footnote:

85 Department of Revenue, Division of Motor Vehicles, Driver Services, Personal Services – The initial fiscal note estimated a total of 66,000 individuals would request an appointment for a S.B. 13-251 document. Continued operations for this program at more than one office are premised on the need to handle the initial surge of applicants. It is the Intent of the General Assembly that once the annual appointments for first-time applicants made available for individuals who are not lawfully present in the United States falls below 5,000 per year or the total persons served reaches 66,000 the Division will reduce the offices that provide the service to one location. Of the amount appropriated to Driver Services, $1.5 million cash funds are for the Colorado Road and Community Safety Act.

COMMENT: Based on the most recent quarterly report submitted by the Department of Revenue, the Colorado Road and Community Safety Act program, enacted in S.B. 13-251, is estimated to reach 66,000 first-time applicants in January 2019. This footnote continues the negotiated budget agreement initiated for FY 2015-16.

REQUESTS FOR INFORMATION

Staff recommends **CONTINUING** the following request for information:

N Department of Revenue, Division of Motor Vehicles, Driver Services -- The Department is requested to submit to the Joint Budget Committee by the first of every quarter, beginning June 30, 2017, a report about the progress made on meeting the demand for services offered under S.B. 13-251, which was estimated at 66,000 individuals. For individuals served who are not lawfully present in the United States, the report should include the number of appointments made available, the number of "no shows" for appointments, the number of appointments that resulted in no document issuance, the number of documents issued, and a justification based in data for why there is a continued need to offer services for individuals who cannot demonstrate a lawful presence in the United States at more than one location. If the number of first time applicants who receive an identification document exceeds 66,000, it is further requested the Department provide written notice to the Joint Budget Committee as soon as practical.

COMMENT: This request will continue monitoring the progress the Department is making to meet the first-time applicant demand for Colorado Road and Community Safety Act driver's licenses and identification products, pursuant to Part 5 of Article 2 of Title 24, C.R.S.